Volume 3

STATUTES OF CALIFORNIA

AND DIGESTS OF MEASURES

2007

Constitution of 1879 as Amended

General Laws, Amendments to the Codes,
and Resolutions passed by the
California Legislature

2007–08 Regular Session
2007–08 First Extraordinary Session
2007–08 Second Extraordinary Session

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CHAPTER 278

An act to amend Sections 8238.2, 8238.4, and 8239 of the Education Code, relating to state preschool programs.

[Approved by Governor October 5, 2007. Filed with Secretary of State October 5, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 8238.2 of the Education Code is amended to read:

8238.2. A local educational agency or a participating program on behalf of one or more participating programs may select a family literacy and education coordinator whose duties may include all of the following:

(a) Developing a system to coordinate the provision of literacy services to families at the local educational agency and community level.

(b) Creating an organizational partnership between each program provider and an adult education program operated by a local educational agency or other community provider, as needed.

(c) Promoting parental involvement in participating classrooms.

SEC. 2. Section 8238.4 of the Education Code is amended to read:

8238.4. Of funds appropriated in Schedule (1) of Item 6110-196-0001 of Section 2.00 of the Budget Act of 2006 (Ch. 48, Stats. 2006) for child development and preschool programs, fifty million dollars ($50,000,000) is available for expenditure by the Superintendent as follows:

(a) (1) Forty-five million dollars ($45,000,000) to reimburse participating programs on a per-child basis at the same rate that is used for the state preschool program, as determined in the annual Budget Act or other statute.

(2) The funds described in paragraph (1) shall be assigned to programs located in the attendance area of elementary schools in deciles 1 to 3, inclusive, based on the 2005 base Academic Performance Index pursuant to Section 52056. Within elementary schools in deciles 1 to 3, inclusive, based on the 2005 base Academic Performance Index, preference shall be provided to underserved areas as described in subdivision (d) of Section 8279.3. If the funds described in paragraph (1) are offered under a new competitive bidding process after January 1, 2008, due to the termination, suspension, or relinquishment of an original contract award and in order to maintain an existing class, the department shall assign first priority to successful applicants that will maintain that class within the attendance area of the elementary school as originally granted.

(3) Notwithstanding any other provision of law, programs receiving funding in this section shall serve children who would attend kindergarten in the subsequent academic year. No child shall receive services from a program under this section for more than one year.

(4) Notwithstanding any other provision of law, a program receiving funding pursuant to this section may provide services to children in families above the income eligibility threshold, as described in Sections 8263 and 8263.1, if the number of contracted slots exceed the number of eligible children. No more than 20 percent of contracted slots, calculated throughout the participating program's entire contract, may be filled by children in families above the income eligibility threshold.

(5) The department shall report to the Department of Finance and the Legislature at budget hearings the number of children who are being served with the funds described in paragraph (1). The report shall also include the number of children served above the income eligibility threshold and the age of all children served.

(b) (1) Five million dollars ($5,000,000) to be distributed to each participating class at a rate of two thousand five hundred dollars ($2,500) per class per school year. Funds received pursuant to this subdivision may be used for all of the following purposes:

(A) Compensation and support costs for program coordinators as described in Section 8238.2.

(B) Staff development pursuant to Section 8238.3.

(C) Family literacy services.

(D) Instructional materials, including consumables.

(2) In the event that the total amount described in paragraph (1) is insufficient to fund all of the participating class at the per classroom rate described in that paragraph, the class rate shall be prorated accordingly.

(c) The appropriation of funds for purposes of this section beyond the amounts described in this section shall be pursuant to the annual Budget Act or other statute.

SEC. 3. Section 8239 of the Education Code is amended to read:

8239. The Superintendent shall encourage state preschool program applicants or contracting agencies to offer full-day services through a combination of part-day preschool slots and part-day general child care and development programs. In order to facilitate a full-day of services, all of the following shall apply:

(a) Part-day preschool programs provided pursuant to this section shall operate between 175 and 180 days.

(b) Part-day general child care and development programs provided pursuant to this section may operate a minimum of 246 days per year unless the child development contract specified a lower minimum days of operation. Part-day general child care and development programs may

operate a full-day for the remainder of the year after the completion of the preschool program.

(c) Full day services provided under this section shall be reimbursed at no more than the standard reimbursement rate with adjustment factors.

(d) Notwithstanding any provision of law, to be eligible for part-day child care, a child who is enrolled in a preschool program shall be required to meet the eligibility requirements specified in paragraph (4) of subdivision (a) of Section 8238.4 and the requirements pursuant to Sections 8263 and 8263.1 at the time of enrollment in a preschool. Subsequent to enrollment, a child shall be deemed eligible for part-day care as long as the child is enrolled in a preschool program.

CHAPTER 279

An act to amend Sections 7150 and 8235 of, to add Section 8032.5 to, and to repeal and add Section 7852.2 of, the Fish and Game Code, relating to fish.

[Approved by Governor October 5, 2007. Filed with Secretary of State October 5, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 7150 of the Fish and Game Code is amended to read:

7150. (a) Upon application to the department's headquarters office in Sacramento and payment of a base fee of four dollars ($4), as adjusted pursuant to Section 713, the following persons, who have not been convicted of any violation of this code, shall be issued a reduced fee sport fishing license that is valid for the calendar year of issue, or, if issued after the beginning of the year, for the remainder thereof and that authorizes the licensee to take any fish, reptile, or amphibians anywhere in this state as otherwise authorized pursuant to this code and regulations adopted pursuant thereto for purposes other than profit:

(1) A disabled veteran having a 50 percent or greater service connected disability upon presentation of proof of an honorable discharge from military service and proof of the disability. Proof of the disability shall be by certification from the United States Veterans Administration or by presentation of a license issued pursuant to this paragraph in the preceding license year.

(2) A person over 65 years of age who is a resident of this state and whose total monthly income from all sources, including any old age

assistance payments, does not exceed the amount in effect on September 1 of each year contained in subdivision (c) of Section 12200 of the Welfare and Institutions Code for single persons or subdivision (d) of Section 12200 of the Welfare and Institutions Code combined income for married persons, as adjusted pursuant to that section. The amount in effect on September 1 of each year shall be the amount used to determine eligibility for a reduced fee license during the following calendar year.

(b) A person applying for a reduced fee sport fishing license shall submit adequate documentation for the department to determine whether the applicant is, in fact, eligible for a reduced fee sport fishing license. The documentation shall be in the form of a letter or other document, as specified by the department, from a public agency, except as provided in paragraph (1) of subdivision (a). The department shall not issue a reduced fee sport fishing license to any person unless it is satisfied that the applicant has provided adequate documentation of eligibility for that license.

(c) The adjustment of the base fee pursuant to Section 713 specified in subdivision (a) shall be applicable to the fishing license years beginning on or after January 1, 1996.

SEC. 2. Section 7852.2 of the Fish and Game Code is repealed.

SEC. 3. Section 7852.2 is added to the Fish and Game Code, to read:

7852.2. Notwithstanding any other provision of law, a commercial fishing license, stamp, permit, or other entitlement for which there is a renewal deadline shall not be renewed after that deadline, except as follows:

(a) In addition to the base fee for the license, stamp, permit, or other entitlement, the department shall assess a late fee for any renewal the application for which is received after the deadline, according to the following schedule:

(1) One to 30 days after the deadline, a fee of one hundred twenty-five dollars ($125).

(2) Thirty-one to 60 days after the deadline, a fee of two hundred fifty dollars ($250).

(3) Sixty-one days or more after the deadline, a fee of five hundred dollars ($500).

(b) The department shall not waive the applicable late fee. The late fees specified in this section are applicable beginning in the 2008 license year, and shall be adjusted annually thereafter pursuant to Section 713.

(c) The department shall deny any application for renewal received after March 31 of the permit year following the year in which the applicant last held a valid permit for that fishery.

(d) An applicant who is denied renewal of a late application may submit a written appeal for renewal to the commission within 60 days

of the date of the department's denial. The commission, upon consideration of the appeal, may grant renewal. If the commission grants renewal, it shall assess the applicable late fee pursuant to subdivision (a).

SEC. 4. Section 8032.5 is added to the Fish and Game Code, to read:

8032.5. Unless otherwise specified, all of the following conditions apply to each commercial fish business license, permit, or other entitlement pursuant to this article:

(a) An application for a commercial fish business license, permit, or other entitlement shall be made on a form containing information as required by the department. The commercial fish business license shall be signed by the holder before use.

(b) Any person who has had a commercial fish business license suspended or revoked shall not engage in that business activity, and shall not receive any other commercial fish business license, permit, or other entitlement that authorizes engaging in that business activity, while the suspension or revocation is in effect.

(c) The commission, after notice and opportunity for hearing, may suspend, revoke, or cancel commercial fish business privileges for a period of time to be determined by the commission for any of the following reasons:

(1) The person was not lawfully entitled to be issued the license, permit, or other entitlement.

(2) Any violation of this code, the regulations adopted pursuant thereto, or the terms of the permit or other entitlement by the licensee, permittee, person holding the entitlement, or his or her agent, servant, employee, or person acting under the licensee's, permittee's, or entitled person's direction or control.

(3) Any violation of any federal law relating to the fishery for which the license, permit, or other entitlement was issued by the licensee, permittee, person holding the entitlement, or his or her agent, servant, employee, or person acting under the licensee's, permittee's, or entitled person's direction or control.

(d) A commercial fish business license, permit, or other entitlement is not transferable unless otherwise expressly specified in this code.

(e) Any person who holds a commercial fish business license, permit, or other entitlement, who moves or acquires a new or additional plant, facility, or other place of business for profit involving fish, shall notify the department of the address within three months of commencing business activities at the address.

(f) Each plant, facility, or other place of business in which an activity occurs that is required to be licensed under this article shall have a copy

of each required license on display and available for inspection at any time by the department.

(g) Any person licensed pursuant to this article shall provide the department, at the time of application, with the business name, business address, and business telephone number for all locations doing business under the authority of the person's commercial fish business license, permit, or entitlement.

(h) Any person licensed pursuant to this article who is subject to landing taxes as defined in Section 8041, and who has failed to pay all landing taxes and penalties pursuant to Section 8053, shall not be allowed to renew their commercial fish business license, permit, or entitlement until payment is made in full to the department.

(i) Any person licensed pursuant to this article who is subject to landing taxes as defined in Section 8041, who fails to submit landing receipts pursuant to Section 8046, may be subject to suspension or revocation of their commercial fish business license, permit, or entitlement.

SEC. 5. Section 8235 of the Fish and Game Code is amended to read:

8235. (a) The owner of a permitted vessel, or that owner's agent, may apply for renewal of the permit annually on or before April 30, upon payment of the fees established under subdivision (b), without penalty. Upon receipt of the application and fees, the department shall issue the permit for use of the permitted vessel in the subsequent permit year only to the owner of the permitted vessel.

(b) The department shall fix the annual fee for the renewal of the permit in an amount it determines to be necessary to pay the reasonable costs of implementing and administering this article.

(c) If an owner to whom a permit has been issued, or that owner's agent, applies for renewal of the permit, the application for renewal shall be received or, if mailed, postmarked on or before April 30. An application received or, if mailed, postmarked after April 30 will be assessed a late fee subject to Section 7852.2. The department shall issue the permit for use of the permitted vessel in the subsequent permit year.

(d) The department shall suspend any late fees otherwise due under subdivision (c) and shall issue a permit for use of the permitted vessel in the subsequent permit year if the department is unable to accept applications for renewal of permits by March 1.

(e) Except as provided in subdivision (c), the department shall not renew a permit for which the application for renewal is not received, or, if mailed, is received or postmarked after expiration of the permit.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred

because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CHAPTER 280

An act to add Section 53755 to the Government Code, relating to local government.

[Approved by Governor October 5, 2007. Filed with Secretary of State October 5, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 53755 is added to the Government Code, to read:

53755. (a) (1) The notice required by paragraph (1) of subdivision (a) of Section 6 of Article XIII D of the California Constitution of a proposed increase of an existing fee or charge for a property-related service being provided to a parcel may be given by including it in the agency's regular billing statement for the fee or charge or by any other mailing by the agency to the address to which the agency customarily mails the billing statement for the fee or charge.

(2) The notice required by paragraph (1) of subdivision (a) of Section 6 of Article XIII D of the California Constitution of a proposed new fee or charge may be given in the manner authorized for notice of an increase of a fee or charge if the agency is currently providing an existing property-related service to the address.

(3) If the agency desires to preserve any authority it may have to record or enforce a lien on the parcel to which service is provided, the agency shall also mail notice to the recordowner's address shown on the last equalized assessment roll if that address is different than the billing or service address.

(b) One written protest per parcel, filed by an owner or tenant of the parcel, shall be counted in calculating a majority protest to a proposed new or increased fee or charge subject to the requirements of Section 6 of Article XIII D of the California Constitution.

(c) Any agency that bills, collects, and remits a fee or charge on behalf of another agency may provide the notice required by Section 6 of Article XIII D of the California Constitution on behalf of the other agency.

CHAPTER 281

An act to amend Sections 19033 and 19049 of the Revenue and Taxation Code, relating to the administration of taxes.

[Approved by Governor October 5, 2007. Filed with Secretary of State October 5, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 19033 of the Revenue and Taxation Code is amended to read:

19033. (a) If the Franchise Tax Board determines that the tax disclosed by the taxpayer on an original or amended return, including an amended return reporting federal adjustments pursuant to Section 18622, is less than the tax disclosed by its examination, it shall mail notice to the taxpayer of the deficiency proposed to be assessed. In no case shall the determination of the deficiency be arbitrary or without foundation.

(b) (1) Except as provided in paragraph (2), the Franchise Tax Board, in connection with the determination described in subdivision (a), shall examine the original or amended return or related electronically stored return data.

(2) If the return or return data described in paragraph (1) has been destroyed or cannot be located after reasonable effort, the Franchise Tax Board shall request the taxpayer to provide a paper or electronic copy of the return. If the taxpayer fails to provide a copy within 30 days, which may be extended an additional 30 days for reasonable cause, from the date of the request, paragraph (1) shall not apply.

(c) As used in this section, "electronically stored return data" means an electronic record of line items from an original or amended return and accompanying schedules that is routinely created as a return is processed.

(d) The amendments to this section made by Chapter 414 of the Statutes of 2000 shall apply to notices of deficiencies proposed to be assessed issued on or after January 1, 2001.

(e) The notice described in subdivision (a) shall be mailed in a manner that includes a postmark. For purposes of this subdivision, postmark

means a postal marking made on a letter, package, or postcard indicating the date on which the item is delivered to the United States Postal Service.

(f) The amendments made to this section by the act adding this subdivision shall apply to notices of deficiencies proposed to be assessed issued on or after January 1, 2008.

SEC. 2. Section 19049 of the Revenue and Taxation Code is amended to read:

19049. (a) When a deficiency is determined and the assessment becomes final, the Franchise Tax Board shall mail notice and demand to the taxpayer for the payment thereof. The deficiency assessed is due and payable at the expiration of 15 days from the date of the notice and demand.

(b) The amendments made by Chapter 600 of the Statutes of 1997 are operative for notices issued on or after January 1, 1998.

(c) The notice described in subdivision (a) shall be mailed in a manner that includes a postmark. For purposes of this subdivision, postmark means a postal marking made on a letter, package, or postcard indicating the date on which the item is delivered to the United States Postal Service.

(d) The amendments made to this section by the act adding this subdivision are operative for notices issued on or after January 1, 2008.

CHAPTER 282

An act to amend Sections 25299.54, 25299.57, and 25299.58 of the Health and Safety Code, relating to petroleum underground storage tanks.

[Approved by Governor October 5, 2007. Filed with Secretary of State October 5, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 25299.54 of the Health and Safety Code is amended to read:

25299.54. (a) Except as provided in subdivisions (b), (c), (d), (e), (g), and (h), an owner or operator, required to perform corrective action pursuant to Section 25296.10, or an owner or operator who, as of January 1, 1988, is required to perform corrective action, who has initiated this action in accordance with Division 7 (commencing with Section 13000) of the Water Code, who is undertaking corrective action in compliance with waste discharge requirements or other orders issued pursuant to Division 7 (commencing with Section 13000) of the Water Code, or

Chapter 6.7 (commencing with Section 25280), may apply to the board for satisfaction of a claim filed pursuant to this article.

(b) A person who has failed to comply with Article 3 (commencing with Section 25299.30) is ineligible to file a claim pursuant to this section.

(c) An owner or operator of an underground storage tank containing petroleum is ineligible to file a claim pursuant to this section if the person meets both of the following conditions:

(1) The person knew, before January 1, 1988, of the unauthorized release of petroleum which is the subject of the claim.

(2) The person did not initiate, on or before June 30, 1988, any corrective action in accordance with Division 7 (commencing with Section 13000) of the Water Code concerning the release, or the person did not, on or before June 30, 1988, initiate corrective action in accordance with Chapter 6.7 (commencing with Section 25280) or the person did not initiate action on or before June 30, 1988, to come into compliance with waste discharge requirements or other orders issued pursuant to Division 7 (commencing with Section 13000) of the Water Code concerning the release.

(d) An owner or operator who violates Section 25296.10 or a corrective action order, directive, notification, or approval order issued pursuant to this chapter, Chapter 6.7 (commencing with Section 25280), or Division 7 (commencing with Section 13000) of the Water Code, is liable for a corrective action cost that results from the owner's or operator's violation and is ineligible to file a claim pursuant to this section.

(e) Notwithstanding this chapter, a person who owns a tank located underground that is used to store petroleum may apply to the board for satisfaction of a claim, and the board may pay the claim pursuant to Section 25299.57 without making the findings specified in paragraph (3) of subdivision (d) of Section 25299.57 if all of the following apply:

(1) The tank meets one of the following requirements:

(A) The tank is located at the residence of a person on property used exclusively for residential purposes at the time of discovery of the unauthorized release of petroleum.

(B) The tank owner demonstrates that the tank is located on property that, on and after January 1, 1985, is not used for agricultural purposes, the tank is of a type specified in subparagraph (B) of paragraph (1) of subdivision (y) of Section 25281, and the petroleum in the tank is used solely for the purposes specified in subparagraph (B) of paragraph (1) of subdivision (y) of Section 25281 on and after January 1, 1985.

(2) The tank is not a tank described in subparagraph (A) of paragraph (1) of subdivision (y) of Section 25281 and the tank is not used on or after January 1, 1985, for the purposes specified in that subparagraph.

(3) The claimant has complied with Section 25299.31 and the permit requirements of Chapter 6.7 (commencing with Section 25280), or the claimant is not subject to the requirements of those provisions.

(f) Whenever the board has authorized the prepayment of a claim pursuant to Section 25299.57, and the amount of money available in the fund is insufficient to pay the claim, the owner or operator shall remain obligated to undertake the corrective action in accordance with Section 25296.10.

(g) The board shall not reimburse a claimant for any eligible costs for which the claimant has been, or will be, compensated by another person. This subdivision does not affect reimbursement of a claimant from the fund under either of the following circumstances:

(1) The claimant has a written contract, other than an insurance contract, with another person that requires the claimant to reimburse the person for payments the person has provided the claimant pending receipt of reimbursement from the fund.

(2) An insurer has made payments on behalf of the claimant pursuant to an insurance contract and either of the following applies:

(A) The insurance contract explicitly coordinates insurance benefits with the fund and requires the claimant to do both of the following:

(i) Maintain the claimant's eligibility for reimbursement of costs pursuant to this chapter by complying with all applicable eligibility requirements.

(ii) Reimburse the insurer for costs paid by the insurer pending reimbursement of those costs by the fund.

(B) The claimant received a letter of commitment prior to June 30, 1999, for the occurrence and the claimant is required to reimburse the insurer for any costs paid by the insurer pending reimbursement of those costs by the fund.

(h) (1) Except as provided in paragraph (2), a person who purchases or otherwise acquires real property on which an underground storage tank or tank specified in subdivision (e) is situated shall not be reimbursed by the board for a cost attributable to an occurrence that commenced prior to the acquisition of the real property if both of the following conditions apply:

(A) The purchaser or acquirer knew, or in the exercise of reasonable diligence would have discovered, that an underground storage tank or tank specified in subdivision (e) was located on the real property being acquired.

(B) A person who owned the site or owned or operated an underground storage tank or tank specified in subdivision (e) at the site during or after the occurrence and prior to acquisition by the purchaser or acquirer would not have been eligible for reimbursement from the fund.

(2) Notwithstanding paragraph (1), if the claim is filed on or after January 1, 2003, the board may reimburse the eligible costs claimed by a person who purchases or otherwise acquires real property on which an underground storage tank or tank specified in subdivision (e) is situated, if all of the following conditions apply:

(A) The claimant is the owner or operator of the underground storage tank or tank specified in subdivision (e) that had an occurrence that commenced prior to the owner's acquisition of the real property.

(B) The claimant satisfies all eligibility requirements, other than those specified in paragraph (1).

(C) The claimant is not an affiliate of a person whose act or omission caused or would cause ineligibility for the fund.

(3) If the board reimburses a claim pursuant to paragraph (2), a person specified in subparagraph (B) of paragraph (1), other than a person who is ineligible for reimbursement from the fund solely because the property was acquired from another person who was ineligible for reimbursement from the fund, shall be liable for the amount paid from the fund. The Attorney General, upon request of the board, shall bring a civil action to recover the liability imposed under this paragraph. All money recovered by the Attorney General under this paragraph shall be deposited in the fund.

(4) The liability established pursuant to paragraph (3) does not limit or supersede liability under any other provision of state or federal law, including common law.

(5) For purposes of this subdivision, the following definitions shall apply:

(A) "Affiliate" means a person who has one or more of the following relationships with another person:

(i) Familial relationship.

(ii) Fiduciary relationship.

(iii) A relationship of direct or indirect control or shared interests.

(B) Affiliates include, but are not limited to, any of the following:

(i) Parent corporation and subsidiary.

(ii) Subsidiaries that are owned by the same parent corporation.

(iii) Business entities involved in a reorganization, as defined in Section 181 of the Corporations Code.

(iv) Corporate officer and corporation.

(v) Shareholder that owns a controlling block of voting stock and the corporation.

(vi) Partner and the partnership.

(vii) Member and a limited liability company.

(viii) Franchiser and franchisee.

(ix) Settlor, trustee, and beneficiary of a trust.

(x) Debtor and bankruptcy trustee or debtor-in-possession.

(xi) Principal and agent.

(C) "Familial relationship" means relationships between family members, including, and limited to, a husband, wife, child, stepchild, parent, grandparent, grandchild, brother, sister, stepbrother, stepsister, stepmother, stepfather, mother-in-law, father-in-law, brother-in-law, sister-in-law, daughter-in-law, son-in-law, and, if related by blood, uncle, aunt, niece, or nephew.

(i) The Legislature finds and declares that the changes made to subparagraph (A) of paragraph (1) of subdivision (e) by Chapter 1290 of the Statutes of 1992 are declaratory of existing law.

(j) The Legislature finds and declares that the amendment of subdivisions (a) and (g) by Chapter 328 of the Statutes of 1999 is declaratory of existing law.

SEC. 2. Section 25299.57 of the Health and Safety Code is amended to read:

25299.57. (a) If the board makes the determination specified in subdivision (d), the board may only pay for the costs of a corrective action that exceed the level of financial responsibility required to be obtained pursuant to Section 25299.32, but not more than one million five hundred thousand dollars ($1,500,000) for each occurrence. In the case of an owner or operator who, as of January 1, 1988, was required to perform corrective action, who initiated that corrective action in accordance with Division 7 (commencing with Section 13000) of the Water Code or Chapter 6.7 (commencing with Section 25280), and who is undertaking the corrective action in compliance with waste discharge requirements or other orders issued pursuant to Division 7 (commencing with Section 13000) of the Water Code or Chapter 6.7 (commencing with Section 25280), the owner or operator may apply to the board for satisfaction of a claim filed pursuant to this article. The board shall notify claimants applying for satisfaction of claims from the fund of eligibility for reimbursement in a prompt and timely manner and that a letter of credit or commitment that will obligate funds for reimbursement shall follow the notice of eligibility as soon thereafter as possible.

(b) (1) For claims eligible for reimbursement pursuant to subdivision (c) of Section 25299.55, the claimant shall submit the actual cost of corrective action to the board, which shall either approve or disapprove

the costs incurred as reasonable and necessary. At least 15 days before the board proposes to disapprove the reimbursement of corrective action costs that have been incurred on the grounds that the costs were unreasonable or unnecessary, the board shall issue a notice advising the claimant and the lead agency of the proposed disallowance, to allow review and comment.

(2) The board shall not reject any actual costs of corrective action in a claim solely on the basis that the invoices submitted fail to sufficiently detail the actual costs incurred, if all of the following apply:

(A) Auxiliary documentation is provided that documents to the board's satisfaction that the invoice is for necessary corrective action work.

(B) The costs of corrective action work in the claim are reasonably commensurate with similar corrective action work performed during the same time period covered by the invoice for which reimbursement is sought.

(C) The invoices include a brief description of the work performed, the date that the work was performed, the vendor, and the amount.

(c) (1) For claims eligible for prepayment pursuant to subdivision (c) of Section 25299.55, the claimant shall submit the estimated cost of the corrective action to the board, which shall approve or disapprove the reasonableness of the cost estimate.

(2) If the claim is for reimbursement of costs incurred pursuant to a performance-based contract, Article 6.5 (commencing with Section 25299.64) shall apply to that claim.

(d) Except as provided in subdivision (j), a claim specified in subdivision (a) may be paid if the board makes all of the following findings:

(1) There has been an unauthorized release of petroleum into the environment from an underground storage tank.

(2) The claimant is required to undertake or contract for corrective action pursuant to Section 25296.10, or, as of January 1, 1988, the claimant has initiated corrective action in accordance with Division 7 (commencing with Section 13000) of the Water Code.

(3) The claimant has complied with Section 25299.31.

(4) (A) Except as provided in subparagraphs (B) and (C), the claimant has complied with the permit requirements of Chapter 6.7 (commencing with Section 25280). A claimant shall obtain a permit required by subdivision (a) of Section 25284 for the underground storage tank that is the subject of the claim when the claimant becomes subject to subdivision (a) of Section 25284 or when the applicable local agency begins issuing permits pursuant to subdivision (a) of Section 25284, whichever occurs later.

(B) A claimant who acquires real property on which an underground storage tank is situated and, despite the exercise of reasonable diligence, was unaware of the existence of the underground storage tank when the real property was acquired, has obtained a permit required by subdivision (a) of Section 25284 for the underground storage tank that is the subject of the claim within a reasonable period, not to exceed one year, from when the claimant should have become aware of the existence of the underground storage tank, or when the applicable local agency began issuing permits pursuant to Section 25284, whichever occurs later.

(C) All claimants who file their claim on or after January 1, 2008, and who do not obtain a permit required by subdivision (a) of Section 25284 in accordance with subparagraph (A) or (B) may seek a waiver of the requirement to obtain a permit. The board shall waive the provisions of subparagraphs (A) and (B) as a condition for payment from the fund if the board finds all of the following:

(i) The claimant was unaware of the permit requirement, and upon becoming aware of the permit requirement, the claimant complies with subdivision (a) of Section 25284 or 25298 and the regulations adopted to implement those sections within a reasonable period, not to exceed one year, from when the claimant became aware of the permit requirement.

(ii) Prior to submittal of the application to the fund, the claimant has complied with Section 25299.31 and has obtained and paid for all permits currently required by this paragraph.

(iii) Prior to submittal of the application to the fund, the claimant has paid all fees, interest, and penalties imposed pursuant to Article 5 (commencing with Section 25299.40) and Part 26 (commencing with Section 50101) of Division 2 of the Revenue and Taxation Code for the underground storage tank that is the subject of the claim.

(D) (i) A claimant exempted pursuant to subparagraph (C) and who has complied, on or before December 22, 1998, with subdivision (a) of Section 25284 or 25298 and the regulations adopted to implement those sections, shall obtain a level of financial responsibility twice as great as the amount that the claimant is otherwise required to obtain pursuant to subdivision (a) of Section 25299.32, but in no event less than ten thousand dollars ($10,000). All other claimants exempted pursuant to subparagraph (C) shall obtain a level of financial responsibility that is four times as great as the amount that the claimant is otherwise required to obtained pursuant to subdivision (a) of Section 25299.32, but in no event less than twenty thousand dollars ($20,000).

(ii) The board may waive the requirements of clause (i) if the claimant can demonstrate that the conditions specified in clauses (i) to (iii), inclusive, of subparagraph (B) were satisfied prior to the causing of any

contamination. That demonstration may be made through a certification issued by the permitting agency based on a site evaluation and tank tests at the time of permit application or in any other manner acceptable to the board.

(E) All claimants who file a claim before January 1, 2008, and who are not eligible for a waiver of the permit requirements pursuant to applicable statutes or regulations in effect on the date of the filing of the claim may resubmit a new claim pursuant to subparagraph (C) on or after January 1, 2008. The board shall rank all claims resubmitted pursuant to subparagraph (C) lower than all claims filed before January 1, 2008, within their respective priority classes specified in subdivision (b) of Section 25299.52.

(5) The board has approved either the costs incurred for the corrective action pursuant to subdivision (b) or the estimated costs for corrective action pursuant to subdivision (c).

(6) The claimant has paid all fees, interest, and penalties imposed pursuant to Article 5 (commencing with Section 29299.40) and Part 26 (commencing with Section 50101) of Division 2 of the Revenue and Taxation Code for the underground storage tank that is the subject of the claim.

(e) The board shall provide the claimant, whose cost estimate has been approved, a letter of commitment authorizing payment of the costs from the fund.

(f) The claimant may submit a request for partial payment to cover the costs of corrective action performed in stages, as approved by the board.

(g) (1) A claimant who submits a claim for payment to the board shall submit multiple bids for prospective costs as prescribed in regulations adopted by the board pursuant to Section 25299.77.

(2) A claimant who submits a claim to the board for the payment of professional engineering and geologic work shall submit multiple proposals and fee estimates, as required by the regulations adopted by the board pursuant to Section 25299.77. The claimant's selection of the provider of these services is not required to be based on the lowest estimated fee, if the fee estimate conforms with the range of acceptable costs established by the board.

(3) A claimant who submits a claim for payment to the board for remediation construction contracting work shall submit multiple bids, as required in the regulations adopted by the board pursuant to Section 25299.77.

(4) Paragraphs (1), (2), and (3) do not apply to a tank owned or operated by a public agency if the prospective costs are for private professional services within the meaning of Chapter 10 (commencing

with Section 4525) of Division 5 of Title 1 of the Government Code and those services are procured in accordance with the requirements of that chapter.

(h) The board shall provide, upon the request of a claimant, assistance to the claimant in the selection of contractors retained by the claimant to conduct reimbursable work related to corrective actions. The board shall develop a summary of expected costs for common corrective actions. This summary of expected costs may be used by claimants as a guide in the selection and supervision of consultants and contractors.

(i) The board shall pay, within 60 days from the date of receipt of an invoice of expenditures, all costs specified in the work plan developed pursuant to Section 25296.10, and all costs that are otherwise necessary to comply with an order issued by a local, state, or federal agency.

(j) (1) The board shall pay a claim of not more than three thousand dollars ($3,000) per occurrence for regulatory technical assistance to an owner or operator who is otherwise eligible for reimbursement under this chapter.

(2) For the purposes of this subdivision, regulatory technical assistance is limited to assistance from a person, other than the claimant, in the preparation and submission of a claim to the fund. Regulatory technical assistance does not include assistance in connection with proceedings under Section 25296.40, 25299.39.2, or 25299.56 or any action in court.

(k) (1) Notwithstanding any other provision of this section, the board shall pay a claim for the costs of corrective action to a person who owns property on which is located a release from a petroleum underground storage tank that has been the subject of a completed corrective action and for which additional corrective action is required because of additionally discovered contamination from the previous release, only if the person who carried out the earlier and completed corrective action was eligible for, and applied for, reimbursement pursuant to subdivision (b), and only to the extent that the amount of reimbursement for the earlier corrective action did not exceed the amount of reimbursement authorized by subdivision (a). Reimbursement to a claimant on a reopened site shall occur when funds are available, and reimbursement commitment shall be made ahead of any new letters of commitment to be issued, as of the date of the reopening of the claim, if funding has occurred on the original claim, in which case funding shall occur at the time it would have occurred under the original claim.

(2) For purposes of this subdivision, a corrective action is completed when the local agency or regional board with jurisdiction over the site or the board issues a closure letter pursuant to subdivision (g) of Section 25296.10.

SEC. 3. Section 25299.58 of the Health and Safety Code is amended to read:

25299.58. (a) Except as provided in subdivision (d), if the board makes the determination specified in subdivision (b), the board may only reimburse those costs that are related to the compensation of third parties for bodily injury and property damages and that exceed the level of financial responsibility required to be obtained pursuant to Section 25299.32, but not more than one million dollars ($1,000,000) for each occurrence.

(b) A claim may be paid if the board makes all of the following findings:

(1) There has been an unauthorized release of petroleum into the environment from an underground storage tank.

(2) The claimant has been ordered to pay a settlement or final judgment for third-party bodily injury or property damage arising from operating an underground storage tank.

(3) The claimant has complied with Section 25299.31.

(4) (A) Except as provided in subparagraphs (B) and (C), the claimant has complied with the permit requirements of Chapter 6.7 (commencing with Section 25280). A claimant shall obtain a permit required by subdivision (a) of Section 25284 for the underground storage tank that is the subject of the claim when the claimant becomes subject to subdivision (a) of Section 25284 or when the applicable local agency begins issuing permits pursuant to subdivision (a) of Section 25284, whichever occurs later.

(B) A claimant who acquires real property on which an underground storage tank is situated and, despite the exercise of reasonable diligence, was unaware of the existence of the underground storage tank when the real property was acquired, has obtained a permit required by subdivision (a) of Section 25284 for the underground storage tank that is the subject of the claim within a reasonable period, not to exceed one year, from when the claimant should have become aware of the existence of the underground storage tank, or when the applicable local agency began issuing permits pursuant to Section 25284, whichever occurs later.

(C) All claimants who file their claim on or after January 1, 2008, and who do not obtain a permit required by subdivision (a) of Section 25284 in accordance with subparagraph (A) or (B) may seek a waiver of the requirement to obtain a permit. The board shall waive the provisions of subparagraphs (A) and (B) as a condition for payment from the fund if the board finds all of the following:

(i) The claimant was unaware of the permit requirement, and upon becoming aware of the permit requirement, the claimant complies with subdivision (a) of Section 25284 or 25298 and the regulations adopted

to implement those sections within a reasonable period, not to exceed one year, from when the claimant became aware of the permit requirement.

(ii) Prior to submittal of the application to the fund, the claimant has complied with Section 25299.31 and has obtained and paid for all permits currently required by this paragraph.

(iii) Prior to submittal of the application to the fund, the claimant has paid all fees, interest, and penalties imposed pursuant to Article 5 (commencing with Section 25299.40) and Part 26 (commencing with Section 50101) of Division 2 of the Revenue and Taxation Code for the underground storage tank that is the subject of the claim.

(D) (i) A claimant exempted pursuant to subparagraph (C) and who has complied, on or before December 22, 1998, with subdivision (a) of Section 25284 or 25298 and the regulations adopted to implement those sections, shall obtain a level of financial responsibility in an amount twice as great as the amount that the claimant is otherwise required to obtain pursuant to subdivision (a) of Section 25299.32, but in no event less than ten thousand dollars ($10,000). All other claimants exempted pursuant to subparagraph (C) shall obtain a level of financial responsibility that is four times as great as the amount that the claimant is otherwise required to obtained pursuant to subdivision (a) of Section 25299.32, but in no event less than twenty thousand dollars ($20,000).

(ii) The board may waive the requirements of clause (i) if the claimant can demonstrate that the conditions specified in clauses (i) to (iii), inclusive, of subparagraph (B) were satisfied prior to any contamination having been caused. That demonstration may be made through a certification issued by the permitting agency based on a site evaluation and tank tests at the time of permit application or in any other manner as may be acceptable to the board.

(E) All claimants who file a claim before January 1, 2008, and who are not eligible for a waiver of the permit requirements pursuant to applicable statutes or regulations in effect on the date of the filing of the claim may resubmit a new claim pursuant to subparagraph (C) on or after January 1, 2008. The board shall rank all claims resubmitted pursuant to subparagraph (C) lower than all claims filed before January 1, 2008, within their respective priority classes specified in subdivision (b) of Section 25299.52.

(4) The claimant is required to undertake or contract for corrective action pursuant to Section 25296.10, or, as of January 1, 1988, the claimant has initiated corrective action in accordance with Division 7 (commencing with Section 13000) of the Water Code or Chapter 6.7 (commencing with Section 25280).

(5) The claimant has paid all fees, interest, and penalties imposed pursuant to Article 5 (commencing with Section 29299.40) and Part 26 (commencing with Section 50101) of Division 2 of the Revenue and Taxation Code for the underground storage tank that is the subject of the claim.

(c) A claimant may be reimbursed by the fund for compensation of third parties for only the following:

(1) Medical expenses.

(2) Actual lost wages or business income.

(3) Actual expenses for remedial action to remedy the effects of damage to the property of the third party caused by the unauthorized release of petroleum from an underground storage tank.

(4) The fair market value of the property rendered permanently unsuitable for use by the unauthorized release of petroleum from an underground storage tank.

(d) The board shall pay a claim submitted pursuant to subdivision (d) of Section 25299.54 for the costs related to the compensation of third parties for bodily injury and property damages that exceed the level of financial responsibility required to be obtained pursuant to paragraph (2) of subdivision (a) of Section 25299.32, but not more than one million dollars ($1,000,000) for each occurrence.

CHAPTER 283

An act to add Section 85304.5 to the Government Code, relating to the Political Reform Act of 1974.

[Approved by Governor October 5, 2007. Filed with Secretary of State October 5, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 85304.5 is added to the Government Code, to read:

85304.5. (a) A candidate for elective office other than an elective state office or an elected officer other than an elected state officer may establish a separate account pursuant to subdivision (a) of Section 85304 and may use these funds only to defray attorney's fees and other related legal costs.

(b) A candidate for an elective office other than an elective state office may receive contributions to the separate account subject to any limitations provided by local ordinance. However, all contributions to

these separate accounts shall be reported in a manner prescribed by the commission.

(c) Once the legal dispute is resolved, the candidate or elected officer shall dispose of any funds remaining in the separate accounts after all expenses associated with the dispute are discharged for one or more of the purposes set forth in paragraphs (1) to (5), inclusive, of subdivision (b) of Section 89519.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 3. The Legislature finds and declares that this bill furthers the purposes of the Political Reform Act of 1974 within the meaning of subdivision (a) of Section 81012 of the Government Code.

CHAPTER 284

An act to add Sections 19602.7 and 19609 to the Government Code, relating to demonstration projects.

[Approved by Governor October 5, 2007. Filed with Secretary of State October 5, 2007.]

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) The State Personnel Board and the Department of Transportation entered into a demonstration project that was designed to study alternative to traditional methods of examining, selecting, appointing, and promoting managerial candidates of the Department of Transportation.

(b) The alternative selection procedures that have been implemented as part of the demonstration project have improved the ability of the Department of Transportation to match candidates to critical managerial positions and have expedited the selection and hiring process.

(c) Based on the success of the demonstration project, it is the intent of the Legislature to make permanent the alternative methods, as utilized in the selection demonstration project, of examining, selecting, appointing, and promoting employees of the Department of

Transportation to managerial classifications as agreed to by the State Personnel Board.

(d) Throughout the demonstration project, the Department of Transportation conducted ongoing periodic discussions with representatives of the Professional Engineers in California Government, who provided constructive input regarding the execution of the project. These discussions resulted in various improvements to the selection process, including the development of a survey for hiring managers to determine the effectiveness of job candidate matching and satisfaction regarding the process, and developing a brochure to educate employers about the process. The Professional Engineers in California Government also agreed to participate in focus groups to further evaluate the effectiveness of the process. It is the intent of the Legislature that this cooperative effort continue.

(e) On an annual basis, or more frequently upon mutual agreement of the parties, the Service Employees International Union and the Professional Engineers in California Government representing employees in State Bargaining Units 1 and 9 shall continue to have an opportunity to comment on the managerial selection process, as described in Section 19602.7 that is added to the Government Code by this act. Nothing in this subdivision shall be construed to provide any new examination or hiring-related appeal to the managerial selection process in addition to what is provided by existing law or regulation.

SEC. 2. Section 19602.7 is added to the Government Code, to read:

19602.7. (a) Notwithstanding Section 18900, 18901, 18930, 18930.5, 18931, 18933, 18938.5, 18950, 19050, 19054.1, or 19057.2, or any other law, but consistent with the merit principles of subdivision (b) of Section 1 of Article VII of the California Constitution, the Department of Transportation appointing authority may conduct examinations and make appointments as specified by this section. The purpose of this section is to provide the Department of Transportation with greater flexibility to match candidates to position-specific vacancies, at the same time resulting in an expedited selection process and cost savings to the department.

(b) The Department of Transportation appointing authority may conduct competitive examinations on a position-specific basis for managerial classifications as agreed to by the board in the manner described in Article 8 (commencing with Section 549.90) of Subchapter 4 of Chapter 1 of Division 1 of Title 2 of the California Code of Regulations. The Department of Transportation appointing authority shall rank each examination candidate in the manner specified in Article 4 (commencing with Section 548.30) and Article 5 (commencing with Section 548.40) of Subchapter 2 of Chapter 1 of Division 1 of Title 2 of the California Code of Regulations.

SEC. 3. Section 19609 is added to the Government Code, to read:

19609. (a) For any demonstration project made permanent pursuant to legislation operative on or after January 1, 2008 a department participating in the demonstration project shall file a report on all aspects of the demonstration project with the State Personnel Board. The report shall include, but is not limited to, all of the following:

(1) The number of applicants.

(2) The number of applicants that were hired.

(3) The cost of the hiring process.

(4) The number and nature of examination appeals.

(5) The length of time to complete the hiring and testing process.

(b) For a three-year period from the date that the demonstration project becomes permanent, the department shall file the report described in subdivision (a) on an annual basis. After the expiration of this three-year period, the department shall file a report if a report is requested by the State Personnel Board.

(c) When the State Personnel Board receives a report described in this section, the State Personnel Board may hold a public hearing to provide for the exchange of information and an opportunity for public comment about the demonstration project that is the subject of the report.

CHAPTER 285

An act to amend Sections 18, 62, 331, 332, 396, 711.2, 856, 1001, 1011, 1050.1, 1052, 1052.5, 1053.5, 1054, 1054.2, 1054.8, 1061, 1124, 1572, 2001, 2005, 2011, 2012, 2115, 2120, 2121, 2127, 2150.3, 2150.4, 2186, 2187, 2189, 2192, 2345, 2346, 2347, 2348, 2349, 2353, 2362, 2535, 3001, 3003.5, 3004, 3007, 3031.2, 3050, 3051, 3054, 3080, 3087, 3242, 3500, 3680, 3683, 3801, 3801.6, 3803, 4000, 4005, 4012, 4152, 4180, 4181.5, 4186, 4330, 4331, 4332, 4333, 4334, 4336, 4340, 4341, 4652, 4653, 4655, 4657, 4750, 4751, 4752, 4753, 4754, 4755, 4902, 4904, 5514, 5652, 6301, 7145, 7147, 7149.2, 7149.4, 7149.45, 7153, 7180, 7852.27, 8022, 8030, 8051.4, 8250.5, 8284, 8372, 8573, 8576, 8597, 8598, 8632, 8681, 10500, 10506, 11032, 12000, 12001.5, 12002, 12002.1, and 12013 of, to add Sections 19, 89.1, 1575, 12002.11, and 12002.2.1 to, to add Article 3.5 (commencing with Section 1575) to Chapter 5 of Division 2 of, to repeal Sections 397, 2150.5, 3005.9, 3005.91, 3005.92, 3005.93, 3005.94, 3055, 3055.1, 3304, 4001, 5020, 5502, and 8383 of, the Fish and Game Code, relating to fish and wildlife.

[Approved by Governor October 5, 2007. Filed with Secretary of State October 5, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 18 of the Fish and Game Code is amended to read:

18. "Bag limit" means the maximum limit, in number or amount, of birds, mammals, fish, reptiles, or amphibians that may lawfully be taken by any one person during a specified period of time.

SEC. 2. Section 19 is added to the Fish and Game Code, to read:

19. "Possession limit" means the maximum, in number or amount, of birds, mammals, fish, reptiles, or amphibians that may be lawfully possessed by one person.

SEC. 3. Section 62 of the Fish and Game Code is amended to read:

62. "Open season" means that period of time during which the taking of birds, mammals, fish, reptiles, or amphibians is allowed as prescribed in this code and regulations adopted by the commission. If used to define the period of time during which take is allowed "season" means "open season."

SEC. 4. Section 89.1 is added to the Fish and Game Code, to read:

89.1. "Waters of the state," "waters of this state," and "state waters" have the same meaning as "waters of the state" as defined in subdivision (e) of Section 13050 of the Water Code.

SEC. 5. Section 331 of the Fish and Game Code is amended to read:

331. (a) The commission may determine and fix the area or areas, the seasons and hours, the bag and possession limit, and the sex and total number of antelope (Antilocapra americana) that may be taken under regulations that the commission may adopt from time to time. Only a person possessing a valid hunting license, who has not received an antelope tag under these provisions during a period of time specified by the commission, may obtain a tag for the taking of antelope.

(b) The department may issue a tag upon payment of a fee. The fee for a tag shall be fifty-five dollars ($55) for a resident of the state, as adjusted under Section 713. On or before July 1, 2007, the commission shall, by regulation, fix the fee for a nonresident of the state at not less than a fee of three hundred fifty dollars ($350), as adjusted under Section 713. The fee shall be deposited in the Fish and Game Preservation Fund and, upon appropriation by the Legislature, shall be expended, in addition to moneys budgeted for salaries of persons in the department, for the expense of implementing this section.

(c) The commission shall direct the department to annually authorize not less than one antelope tag or more than 1 percent of the total number of tags available for the purpose of raising funds for programs and projects to benefit antelope. These tags may be sold at auction to residents

or nonresidents of the state or by another method and are not subject to the fee limitation prescribed in subdivision (b).

(d) The commission shall direct the department to annually authorize one antelope tag of the total number of tags available for issuance to nonresidents of the state.

SEC. 6. Section 332 of the Fish and Game Code is amended to read:

332. (a) The commission may determine and fix the area or areas, the seasons and hours, the bag and possession limit, and the number of elk that may be taken under rules and regulations that the commission may adopt from time to time. The commission may authorize the taking of tule elk if the average of the department's statewide tule elk population estimates exceeds 2,000 animals, or the Legislature determines, pursuant to the reports required by Section 3951, that suitable areas cannot be found in the state to accommodate that population in a healthy condition.

(b) Only a person possessing a valid hunting license may obtain a tag for the taking of elk.

(c) The department may issue an elk tag upon payment of a fee. The fee for a tag shall be one hundred sixty-five dollars ($165) for a resident of the state, as adjusted under Section 713. On or before July 1, 2007, the commission shall, by regulation, fix the fee for a nonresident of the state at not less than one thousand fifty dollars ($1,050), as adjusted under Section 713. The fees shall be deposited in the Fish and Game Preservation Fund and, upon appropriation by the Legislature, shall be expended, in addition to moneys budgeted for salaries of the department, for the expenses of implementing this section and Section 3951.

(d) The commission shall annually direct the department to authorize not more than three elk hunting tags for the purpose of raising funds for programs and projects to benefit elk. These tags may be sold at auction to residents or nonresidents of the state or by another method and are not subject to the fee limitation prescribed in subdivision (c).

(e) The commission shall direct the department to annually authorize one elk tag of the total number of tags available for issuance to nonresidents of the state.

SEC. 7. Section 396 of the Fish and Game Code is amended to read:

396. (a) The falconry license shall be valid for a license year beginning on July 1 and ending on the last day of June of the next succeeding calendar year. If issued after July 1 of any year, a falconry license is valid for the remainder of that license year.

(b) For the license years beginning on or after March 1, 1987, the fee for a falconry license is a base fee of thirty dollars ($30) as adjusted under Section 713.

SEC. 8. Section 397 of the Fish and Game Code is repealed.

SEC. 9. Section 711.2 of the Fish and Game Code is amended to read:

711.2. (a) For purposes of this code, unless the context otherwise requires, "wildlife" means and includes all wild animals, birds, plants, fish, amphibians, reptiles, and related ecological communities, including the habitat upon which the wildlife depends for its continued viability and "project" has the same meaning as defined in Section 21065 of the Public Resources Code.

(b) For purposes of this article, "person" includes any individual, firm, association, organization, partnership, business, trust, corporation, limited liability company, company, district, city, county, city and county, town, the state, and any of the agencies of those entities.

SEC. 10. Section 856 of the Fish and Game Code is amended to read:

856. (a) All employees of the department designated by the director as deputized law enforcement officers are peace officers as provided by Section 830.2 of the Penal Code. The authority of that peace officer extends to any place in the state as to a public offense committed or which offense there is probable cause to believe has been committed within the state.

(b) Every peace officer described in this section, before the date that he or she is first deputized by the department, shall have satisfactorily completed the basic course as set forth in the regulations of the Commission on Peace Officer Standards and Training.

(c) Every peace officer described in this section shall be required to complete regular training courses as required by the Commission on Peace Officer Standards and Training.

SEC. 11. Section 1001 of the Fish and Game Code is amended to read:

1001. Nothing in this code or any other law shall prohibit the department from taking, for scientific, propagation, public health or safety, prevention or relief of suffering, or law enforcement purposes, fish, amphibians, reptiles, mammals, birds, and the nests and eggs thereof, or any other form of plant or animal life.

SEC. 12. Section 1011 of the Fish and Game Code is amended to read:

1011. (a) The department may procure insurance for any of the following purposes:

(1) For itself and landowners who agree to permit the department to use their land as cooperative hunting, fishing, conservation or recreational areas, against any liability resulting from the operation of those hunting, fishing, conservation or recreational areas.

(2) For its employees or other persons authorized by the department to conduct hunter education training courses against any public liability or property damage resulting from that training.

(b) The cost of insurance procured pursuant to subdivision (a) shall be a proper charge against and shall be paid out of the Fish and Game Preservation Fund.

SEC. 13. Section 1050.1 of the Fish and Game Code is amended to read:

1050.1. Any license, permit, tag, stamp, or other entitlement authorized pursuant to this code is not valid until it is filled out completely and accurately and the fee authorized or identified in statute or regulation for that entitlement is received and paid to the department or its agent. It is the responsibility of the user to ensure that the license, permit, tag, stamp, or other entitlement is filled out completely and accurately.

SEC. 14. Section 1052 of the Fish and Game Code is amended to read:

1052. It is unlawful for any person to do any of the following:

(a) Transfer any license, tag, stamp, permit, application, or reservation.

(b) Use or possess any license, tag, stamp, permit, application, or reservation that was not lawfully issued to the user or possessor thereof or that was obtained by fraud, deceit, or the use of a fake or counterfeit application form.

(c) Use or possess any fake or counterfeit license, tag, stamp, permit, permit application form, band, or seal, made or used for the purpose of evading any of the provisions of this code, or regulations adopted pursuant thereto.

(d) Predate, fail to date, or alter any date of any license, tag, or permit.

(e) Postdate the date of application or the date of issuance of the license, tag, or permit. This subdivision does not apply to the date that a license, tag, or permit is valid.

(f) Alter, mutilate, deface, duplicate, or counterfeit any license, tag, permit, permit application form, band, or seal, or entries thereon, to evade the provisions of this code, or any regulations adopted pursuant thereto.

SEC. 15. Section 1052.5 of the Fish and Game Code is amended to read:

1052.5. Any stamp issued pursuant to this article is not valid unless affixed to the appropriate license document.

SEC. 16. Section 1053.5 of the Fish and Game Code is amended to read:

1053.5. Applicants for hunting licenses pursuant to subdivision (a) of Section 1053 shall first satisfactorily complete a hunter education

equivalency examination and obtain a certificate of equivalency as provided by regulations adopted by the commission, or show proof of completion of a hunter education training course, or show a previous year's hunting license.

SEC. 17. Section 1054 of the Fish and Game Code is amended to read:

1054. (a) It is unlawful to submit, or conspire to submit, any false, inaccurate, or otherwise misleading information on any application or other document offered or otherwise presented to the department for any purpose, including, but not limited to, obtaining a license, tag, permit, or other privilege or entitlement pursuant to this code or regulations adopted thereto.

(b) The department may require the applicant for a license, tag, permit, or other privilege or entitlement to show proof of the statements or facts required for the issuance of any license, tag, permit, or other privilege or entitlement.

(c) For purposes of this section, "department" includes any department employee, license agent, or any person performing the duties of a department employee or license agent.

SEC. 18. Section 1054.2 of the Fish and Game Code is amended to read:

1054.2. Every person while engaged in taking any bird, mammal, fish, amphibian, or reptile shall have on his or her person or in his or her immediate possession, or where otherwise specifically required by law to be kept, any license, tag, stamp, or permit that is required in order to take the bird, mammal, fish, amphibian, or reptile. In the case of a person diving from a boat, the license or permit may be kept on the boat, or in the case of a person diving from shore, the license or permit may be kept within 500 yards of the shore.

SEC. 19. Section 1054.8 of the Fish and Game Code is amended to read:

1054.8. (a) The department shall establish, and keep current, written policies and procedures relating to the application process and the award of hunting tags for fundraising purposes, as authorized pursuant to subdivision (c) of Section 331, subdivision (d) of Section 332, Section 4334, or subdivision (d) of Section 4902.

(b) The policies and procedures shall include, but need not be limited to, all of the following:

(1) The application process and criteria.

(2) A standard application format.

(3) An appeal process.

(4) A requirement that all applications shall remain sealed until on or after a filing date specified by the department.

(c) The department shall make the policies and procedures available to interested parties 30 days before their implementation and shall receive and consider any related recommendations.

(d) The department shall not require a minimum tag sale price, except as otherwise provided in this code.

(e) It is the intent of the Legislature that the department develop policies and procedures that seek to maximize both the revenues received by the department and participation by qualified nonprofit organizations making application to sell the tags as sellers of the tags.

SEC. 20. Section 1061 of the Fish and Game Code is amended to read:

1061. (a) The department may allow a person to purchase a license voucher as a gift for a licensee when the licensee's complete and accurate personal information, as defined in regulation, is not provided by the license buyer at the time of purchase.

(b) A license purchase voucher entitles the holder of the voucher to redeem it for the specific license, permit, tag, or other privilege or entitlement, and license year for which it was purchased.

(c) A license purchase voucher shall expire and be considered void if not redeemed within the license year for which it was purchased.

(d) A license purchase voucher may be issued and redeemed by any person authorized by the department to issue licenses.

(e) The license agent handling fee, as provided under subdivision (b) of Section 1055.1, shall only apply to the sale of the license purchase voucher.

(f) This section applies only to licenses, permits, reservations, tags, and other entitlements issued through the Automated License Data System.

SEC. 21. Section 1124 of the Fish and Game Code is amended to read:

1124. It is unlawful to take any fish in any pond, reservoir, or other water-retaining structure belonging to or controlled by the department and used for propagating, raising, holding, protecting, or conserving fish.

SEC. 21.4. Section 1572 of the Fish and Game Code is amended to read:

1572. (a) The department, in partnership with nonprofit conservation groups and other interested nongovernmental organizations that seek to increase and enhance wildlife-dependent recreational opportunities, shall work cooperatively to plan and develop a program to facilitate public access to private lands for wildlife-dependent recreational activities.

(b) (1) Once the terms of the program have been established and approved by the partnership, the commission shall verify that sufficient

demonstration of private landowner and program participant interest has been shown to support the program.

(2) The department may impose user fees or apply for grants, federal funds, or other contributions from nonstate sources to fund the program.

(3) The Department of Finance shall verify that sufficient funds exist in the SHARE Account to start the program. Upon that verification, in order to facilitate the implementation of the program, the commission shall adopt regulations and fees, in addition to those established in Section 3031, for the management and control of wildlife-dependent recreational activities on land that is subject to this article.

(c) The SHARE Account is hereby established in the Fish and Game Preservation Fund. Money deposited in the account from the sources cited in subdivision (d) shall only be used for the purposes set forth in this article and to repay the General Fund or the Fish and Game Preservation Fund, as appropriate, for any expenses incurred by the department, commission, or the Department of Finance in establishing the program.

(d) No General Fund moneys shall be used for the program. Funds may also be used for wildlife conservation purposes on lands subject to an agreement under the program. No moneys shall be available for the program unless the Legislature appropriates moneys to the department therefor.

(e) The department shall maintain data on the types of wildlife-dependent recreational activities preferred by users.

SEC. 21.5. Article 3.5 (commencing with Section 1575) is added to Chapter 5 of Division 2 of the Fish and Game Code, to read:

Article 3.5. Cooperative Hunting Areas

1575. To provide added protection for landowners from the depredation of trespassers and to provide additional hunting opportunities to public hunters and private landowners, the department may contract with landowners for the establishment of cooperative hunting areas according to terms as the respective parties may agree upon, subject to the following conditions:

(a) Cooperative deer and elk hunting areas shall be at least 5,000 acres in size, including the open, restricted, and portions thereof, and may consist of the adjoining lands of one or more owners.

(b) The boundaries of each area shall be posted by the department with a sign stating legal hunting may be allowed in the area if written permission is obtained from the owner or their duly authorized agent.

(c) The department shall enforce the trespass provisions of the Penal Code and the provisions of this code within these areas.

(d) The commission may establish regulations and set fees for the management and control of hunting in these areas.

SEC. 22. Section 2001 of the Fish and Game Code is amended to read:

2001. (a) It is unlawful to take mammals, birds, fish, reptiles, and amphibians outside of established seasons or to exceed any bag limit or possession limit established in this code or by regulations adopted by the commission. Violation of any established season, bag limit, or possession limit may be charged as a violation of this section or of the specific code section or regulation that establishes the season or limit.

(b) Unless otherwise provided, it is unlawful to possess fish, reptiles, or amphibians except during the open season where taken and for 10 days thereafter; and not more than the possession limit thereof may be possessed during the period after the close of the open season.

(c) Except as provided in Section 3080, it is unlawful to possess game birds or mammals except during the open season where taken.

SEC. 23. Section 2005 of the Fish and Game Code is amended to read:

2005. (a) Except as otherwise authorized by this section, it is unlawful to use an artificial light to assist in the taking of game birds, game mammals, or game fish, except that this section shall not apply to sport fishing in ocean waters or other waters where night fishing is permitted if the lights are not used on or as part of the fishing tackle, commercial fishing, nor to the taking of mammals, the taking of which is governed by Article 2 (commencing with Section 4180) of Chapter 3 of Part 3 of Division 4.

(b) It is unlawful for any person, or one or more persons, to throw or cast the rays of any spotlight, headlight, or other artificial light on any highway or in any field, woodland, or forest where game mammals, fur-bearing mammals, or nongame mammals are commonly found, or upon any game mammal, fur-bearing mammal, or nongame mammal, while having in his or her possession or under his or her control any firearm or weapon with which that mammal could be killed, even though the mammal is not killed, injured, shot at, or otherwise pursued.

(c) It is unlawful to use or possess at any time any infrared or similar light used in connection with an electronic viewing device or any night vision equipment, optical devices, including, but not limited to, binoculars or scopes, that use light-amplifying circuits that are electrical or battery powered, to assist in the taking of birds, mammals, amphibians, or fish.

(d) The provisions of this section do not apply to any of the following:

(1) The use of a hand-held flashlight no larger, nor emitting more light, than a two-cell, three-volt flashlight, provided that light is not

affixed in any way to a weapon, or to the use of a lamp or lantern that does not cast a directional beam of light.

(2) Headlights of a motor vehicle operated in a usual manner where there is no attempt or intent to locate a game mammal, fur-bearing mammal, or nongame mammal.

(3) To the owner, or his or her employee, of land devoted to the agricultural industry while on that land, or land controlled by such an owner and in connection with the agricultural industry.

(4) To those other uses as the commission may authorize by regulation.

(e) A person shall not be arrested for violation of this section except by a peace officer.

SEC. 25. Section 2011 of the Fish and Game Code is amended to read:

2011. (a) It is unlawful for any person to take, mutilate, or destroy any bird or mammal lawfully in the possession of another.

(b) For the purpose of this section, a bird or mammal shall be deemed in possession when it is actually reduced to physical possession or when it is wounded or otherwise maimed and the person who wounded or otherwise maimed it is in hot pursuit.

SEC. 26. Section 2012 of the Fish and Game Code is amended to read:

2012. All licenses, tags, and the birds, mammals, fish, reptiles, or amphibians taken or otherwise dealt with under this code, and any device or apparatus designed to be, and capable of being, used to take birds, mammals, fish, reptiles, or amphibians shall be exhibited upon demand to any person authorized by the department to enforce this code or any law relating to the protection and conservation of birds, mammals, fish, reptiles, or amphibians.

SEC. 29. Section 2115 of the Fish and Game Code is amended to read:

2115. The two hundred thousand dollars ($200,000) appropriated in the Budget Act of 1997 for the purposes of this article shall be used for the Greater Sandhill crane. Any money that is not used to develop a recovery plan for that species may be used by the department to implement the recovery plan for that species. Section 2098 does not apply to any costs relating to this article.

SEC. 30. Section 2120 of the Fish and Game Code is amended to read:

2120. (a) The commission, in cooperation with the Department of Food and Agriculture, shall adopt regulations governing both (1) the entry, importation, possession, transportation, keeping, confinement, or release of any and all wild animals that will be or that have been imported into this state pursuant to this chapter, and (2) the possession of all other

wild animals. The regulations shall be designed to prevent damage to the native wildlife or agricultural interests of this state resulting from the existence at large of these wild animals, and to provide for the welfare of wild animals and the safety of the public.

(b) The regulations shall also include criteria for all of the following:

(1) The receiving, processing, and issuing of a permit and conducting inspections.

(2) Contracting out inspection activities.

(3) Responding to public reports and complaints.

(4) The notification of the revocation, termination, or denial of permits, and related appeals.

(5) The method by which the department determines that the breeding of wild animals pursuant to a single event breeding permit for exhibitor or a breeding permit is necessary and will not result in unneeded or uncared for animals, and the means by which the criteria will be implemented and enforced.

(6) How a responding agency will respond to an escape of a wild animal. This shall include, but not be limited to, the establishment of guidelines for the safe recapture of the wild animal and procedures outlining when lethal force would be used to recapture the wild animal.

(c) These regulations shall be developed and adopted by the commission on or before January 1, 2007.

SEC. 31. Section 2121 of the Fish and Game Code is amended to read:

2121. No person having possession or control over any wild animal under this chapter shall intentionally free, or knowingly permit the escape, or release of such an animal, except in accordance with the regulations of the commission.

SEC. 32. Section 2127 of the Fish and Game Code is amended to read:

2127. (a) The department may reimburse eligible local entities, pursuant to a memorandum of understanding entered into pursuant to this section, for costs incurred by the eligible local entities in the administration and enforcement of any provision concerning the possession of, handling of, care for, or holding facilities provided for, a wild animal designated pursuant to Section 2118.

(b) The department may enter into memorandums of understanding with eligible local entities for the administration and enforcement of any provision concerning the possession of, handling of, care for, or holding facilities provided for, a wild animal designated pursuant to Section 2118.

(c) The commission shall adopt regulations that establish specific criteria an eligible local entity shall meet in order to qualify as an eligible local entity.

(d) For the purposes of this division, "eligible local entity" means a county, local animal control officer, local humane society official, educational institution, or trained private individual that enters into a memorandum of understanding with the department pursuant to this section.

SEC. 33. Section 2150.3 of the Fish and Game Code is amended to read:

2150.3. (a) The director shall appoint a committee to advise the director on the humane care and treatment of wild animals.

(b) The committee shall make recommendations to the director for the establishment of standards of performance for administration and enforcement, which shall include, but are not limited to, requiring that the eligible local entity possess a knowledge of humane wild animal training methods.

(c) The committee shall make recommendations to the director as to the frequency of inspections necessary for the enforcement and administration of any provision concerning the possession of, handling of, care for, or holding facilities provided for, a wild animal designated pursuant to Section 2118.

(d) The committee shall advise and assist the director in entering into memorandums of understanding with eligible local entities and in determining whether the memorandums of understanding meet the requirements of this chapter.

SEC. 34. Section 2150.4 of the Fish and Game Code is amended to read:

2150.4. (a) The department or an eligible local entity shall inspect the wild animal facilities, as determined by the director's advisory committee, of each person holding a permit issued pursuant to Section 2150 authorizing the possession of a wild animal.

(b) In addition to the inspections specified in subdivision (a), the department or an eligible local entity, pursuant to the regulations of the commission, may inspect the facilities and care provided for the wild animal of any person holding a permit issued pursuant to Section 2150 for the purpose of determining whether the animal is being cared for in accordance with all applicable statutes and regulations. The department shall collect an inspection fee, in an amount determined by the department pursuant to Section 2150.2.

(c) No later than January 1, 2009, the department, in cooperation with the committee created pursuant to Section 2150.3, shall develop, implement, and enter into memorandums of understanding with eligible

local entities if the department elects not to inspect every wild animal facility pursuant to subdivisions (a) and (b). Eligible local entities shall meet the criteria established in regulations adopted pursuant to subdivision (b) of Section 2157.

SEC. 35. Section 2150.5 of the Fish and Game Code, as added by Section 8 of Chapter 789 of the Statutes of 1990, is repealed.

SEC. 36. Section 2186 of the Fish and Game Code is amended to read:

2186. (a) If during inspection upon arrival any wild animal is found to be diseased, or there is reason to suspect the presence of disease, or there is reason to suspect the presence of disease that is or may be detrimental to agriculture, to native wildlife, or to the public health or safety, the diseased animal, and if necessary, the entire shipment shall be destroyed by, or under the supervision of, the enforcing officer, unless no detriment can be caused by its detention in quarantine for a time and under conditions satisfactory to the enforcing officer for disinfection, treatment, or diagnosis, or no detriment can be caused by its return to its point of origin at the option and expense of the owner or possessor.

(b) Notwithstanding Section 2117, for the purposes of this section, "enforcing officer" means the enforcement personnel of the department, the state plant quarantine officers, and county agricultural commissioners.

SEC. 37. Section 2187 of the Fish and Game Code is amended to read:

2187. (a) Whenever any wild animal is brought into this state under permit, as provided in this chapter, the enforcing officers may, from time to time, examine the conditions under which that species is kept, and report to the department any suspicion or knowledge of any disease or violations of the conditions of the permit or of the regulations promulgated under this chapter. The enforcing officer may order the transfer of the animal to new owners or the correction of the conditions under which the species is being kept if not in conformance with the terms of the permit, at the expense of the owner or possessor. If neither transfer or improvement of conditions is accomplished, the officer may order destruction of the animal.

(b) Notwithstanding Section 2117, for the purposes of this section, "enforcing officer" means the enforcement personnel of the department, the state plant quarantine officers, and county agricultural commissioners.

SEC. 38. Section 2189 of the Fish and Game Code is amended to read:

2189. (a) As used in this section "nonnative wild animal" means any nonnative animal species, or hybrid thereof, that is not normally domesticated pursuant to this code or regulations adopted pursuant thereto

and that is not designated as a furbearing, game, nongame, threatened, or endangered animal.

(b) No person shall import into this state any live nonnative wild animal except pursuant to this chapter or regulations adopted pursuant thereto.

(c) Any live nonnative wild animal that is possessed or transported within this state in violation of this chapter or regulations adopted pursuant thereto shall be disposed of in accordance with regulations adopted pursuant to Section 2122, at the expense of the owner or possessor. The owner or possessor shall pay the costs associated with the seizure, care, holding, transfer, and destruction of the animal.

(d) Any live, nonnative wild animal found at large within this state shall be either summarily destroyed or, if captured, shall be confined for not less than 72 hours following notification of the local humane society. Any local, state, or federal governmental agency that has public safety responsibilities is authorized to implement this subdivision.

(e) If, during the 72-hour holding period, any person claims ownership of the animal, that person shall only be allowed to dispose of the animal pursuant to subdivision (c).

(f) After the 72-hour holding period, if the animal is unclaimed, it shall be disposed of in accordance with regulations adopted pursuant to Section 2122 unless the animal is listed as a threatened or endangered species by either state or federal regulation. Notwithstanding subdivision (c), if the animal is listed as a threatened or endangered species in either regulation, the department shall be notified of the animal's location and the department shall be responsible for proper disposition.

SEC. 39. Section 2192 of the Fish and Game Code is amended to read:

2192. Notwithstanding Part 2.5 (commencing with Section 18900) of Division 13 of the Health and Safety Code, Section 11356 of the Government Code, or any other provision of law, regulations of the commission relating to the construction, fixtures, and other minimum caging standards adopted by the commission for the confinement of live wild animals pursuant to this chapter are not building standards subject to the approval of the State Building Standards Commission.

SEC. 40. Section 2345 of the Fish and Game Code is amended to read:

2345. This article applies to all dead wild birds, mammals, fish, reptiles, and amphibians. This article also applies to live mollusks and crustaceans that are transported for purposes other than placement in the waters of this state. This article does not apply to animals imported for purposes of aquaculture under Division 12 (commencing with Section 15000).

SEC. 41. Section 2346 of the Fish and Game Code is amended to read:

2346. It is unlawful for a common carrier or his or her agent to transport for, or to receive for transportation from, any one person, during any interval of time, more than the bag limit of birds, mammals, fish, reptiles, or amphibians that may legally be taken and possessed by that person during that interval.

SEC. 42. Section 2347 of the Fish and Game Code is amended to read:

2347. It is unlawful for any person to offer for transportation by common carrier during any interval of time more than the bag limit of birds, mammals, fish, reptiles, or amphibians that may legally be taken and possessed by that person during that interval.

SEC. 43. Section 2348 of the Fish and Game Code is amended to read:

2348. (a) Any package in which birds, mammals, fish, reptiles, or amphibians, or parts thereof, are offered for transportation to, or are transported or received for transportation by, a common carrier or his or her agent shall bear the name and address of the shipper and of the consignee and an accurate description of the numbers and kinds of birds, mammals, fish, reptiles, or amphibians contained therein clearly and conspicuously marked on the outside thereof.

(b) Licensed commercial fishermen and licensed commercial fish dealers are subject to all of the provisions of this section, except that commercial shipments of fish may be indicated by total net weight of each species instead of by numbers.

SEC. 44. Section 2349 of the Fish and Game Code is amended to read:

2349. No bird, mammal, fish, reptile, or amphibian, except smoked, cured, or dried fish other than trout, may be shipped by parcel post.

SEC. 45. Section 2353 of the Fish and Game Code is amended to read:

2353. (a) Birds, mammals, fish, reptiles, or amphibians shall not be imported or possessed in this state unless all of the following requirements are met:

(1) The animals were legally taken and legally possessed outside of this state.

(2) This code and regulations adopted pursuant thereto do not expressly prohibit their possession in this state.

(3) A declaration is submitted to the department or a designated state or federal agency at or immediately before the time of entry, in the form and manner prescribed by the department.

(b) Birds, mammals, fish, reptiles, or amphibians legally taken and legally possessed outside of this state may be imported into this state and possessed without a declaration if the shipment is handled by a common carrier under a bill of lading or as supplies carried into this state by common carriers for use as food for the passengers.

(c) The commission and the department shall not modify this section by any regulation that would prohibit the importation of lawfully killed migratory game birds taken in any other state or country and transported into this state pursuant to the migratory bird regulations adopted annually by the Secretary of the Interior.

SEC. 46. Section 2362 of the Fish and Game Code is amended to read:

2362. Yellowtail, barracuda, and white seabass taken in waters lying south of the maritime boundary line between the United States and Mexico, with that maritime boundary line including, but not limited to, the federal Exclusive Economic Zone boundary, may be delivered to California ports aboard boats, including boats carrying purse seine or round haul nets in accordance with those regulations as the commission may make governing the inspection and marking of those fish imported into this state. The cost of that inspection and marking shall be paid by the importer. Fish taken in Mexico shall not be imported unless legally taken and legally possessed and a declaration is submitted to the department pursuant to Section 2353.

SEC. 47. Section 2535 of the Fish and Game Code is amended to read:

2535. As used in this chapter, "guide" means any person who is engaged in the business of packing or guiding, or who, for a fee, assists another person in taking or attempting to take any bird, mammal, fish, amphibian, or reptile. "Guide" also includes any person who, for profit, transports other persons, their equipment, or both to or from a hunting or fishing area.

SEC. 48. Section 3001 of the Fish and Game Code is amended to read:

3001. It is unlawful to take birds or mammals with firearms, BB devices as defined in subdivision (g) of Section 12001 of the Penal Code, crossbows, or with bow and arrow when intoxicated.

SEC. 49. Section 3003.5 of the Fish and Game Code is amended to read:

3003.5. It is unlawful to pursue, drive, or herd any bird or mammal with any motorized water, land, or air vehicle, including, but not limited to, a motor vehicle, airplane, powerboat, or snowmobile, except in any of the following circumstances:

(a) On private property by the landowner or tenant thereof to haze birds or mammals for the purpose of preventing damage by that wildlife to private property.

(b) Pursuant to a permit from the department issued under regulations as the commission may prescribe.

(c) In the pursuit of agriculture.

SEC. 50. Section 3004 of the Fish and Game Code is amended to read:

3004. (a) It is unlawful for any person, other than the owner, person in possession of the premises, or a person having the express permission of the owner or person in possession of the premises, to hunt or to discharge while hunting, any firearm or other deadly weapon within 150 yards of any occupied dwelling house, residence, or other building or any barn or other outbuilding used in connection therewith. The 150-yard area is a "safety zone."

(b) It is unlawful for any person to intentionally discharge any firearm or release any arrow or crossbow bolt over or across any public road or way open to the public, in an unsafe manner.

SEC. 51. Section 3005.9 of the Fish and Game Code is repealed.

SEC. 52. Section 3005.91 of the Fish and Game Code is repealed.

SEC. 53. Section 3005.92 of the Fish and Game Code is repealed.

SEC. 54. Section 3005.93 of the Fish and Game Code is repealed.

SEC. 55. Section 3005.94 of the Fish and Game Code is repealed.

SEC. 56. Section 3007 of the Fish and Game Code is amended to read:

3007. Except as provided in this code or regulations adopted pursuant thereto, every person who takes any bird or mammal shall procure a license or entitlement therefor.

SEC. 57. Section 3031.2 of the Fish and Game Code is amended to read:

3031.2. (a) In addition to Sections 714 and 3031, and notwithstanding Section 3037, the department shall issue lifetime hunting licenses under this section. A lifetime hunting license authorizes the taking of birds and mammals anywhere in this state in accordance with the law for purposes other than profit for the life of the person to whom issued unless revoked for a violation of this code or regulations adopted under this code. A lifetime hunting license is not transferable. A lifetime hunting license does not include any special tags, stamps, or fees.

(b) A lifetime hunting license may be issued to residents of this state, as follows:

(1) To a person 62 years of age or over, upon payment of a base fee of three hundred sixty-five dollars ($365).

(2) To a person 40 years of age or over, and less than 62 years of age, upon payment of a base fee of five hundred forty dollars ($540).

(3) To a person 10 years of age or over, and less than 40 years of age, upon payment of a base fee of six hundred dollars ($600).

(4) To a person less than 10 years of age, upon payment of a base fee of three hundred sixty-five dollars ($365).

(c) Nothing in this section requires a person less than 16 years of age to obtain a license to take birds or mammals except as required by law.

(d) Nothing in this section exempts an applicant for a license from meeting other qualifications or requirements otherwise established by law for the privilege of sport hunting.

(e) The base fees specified in this section are applicable commencing January 1, 2004, and shall be adjusted annually thereafter pursuant to Section 713.

SEC. 58. Section 3050 of the Fish and Game Code is amended to read:

3050. (a) No hunting license may be issued to any person unless he or she presents to the person authorized to issue that license any of the following:

(1) Evidence that he or she has held a hunting license issued by this state in a prior year.

(2) Evidence that he or she holds a current hunting license, or a hunting license issued in either of the two previous hunting years by another state or province.

(3) A certificate of completion of a course in hunter education, principles of conservation, and sportsmanship, as provided in this article. A hunter education instruction validation stamp shall be permanently affixed to certificates of completion that have been issued before January 1, 2008.

(4) A certificate of successful completion of a hunter education course in another state or province.

(5) Evidence of completion of a course in hunter education, principles of conservation, and sportsmanship, which the commission may, by regulation, require.

(b) The evidence required in subdivision (a) shall be forwarded to the department with the license agent's report of hunting license sales as required pursuant to Section 1055.5.

(c) Subdivision (a) does not apply to any person purchasing a hunting license under paragraph (5) of subdivision (a) of Section 3031. However, that license shall not qualify as evidence required in subdivision (a) of this section.

SEC. 59. Section 3051 of the Fish and Game Code is amended to read:

3051. (a) The department shall provide for a course of instruction in hunter education, principles of conservation, and sportsmanship, and for this purpose may cooperate with any reputable association or organization having as one of its objectives the promotion of hunter safety, principles of conservation, and sportsmanship.

(b) The department may designate as a hunter education instructor any person found by it to be competent to give instruction in the courses required in this article. A person so appointed shall give that course of instruction, and, upon completion thereof, shall issue to the person instructed a certificate of completion as provided by the department in hunter safety, principles of conservation, and sportsmanship.

(c) The department shall prescribe a minimum level of skill and knowledge to be required of all hunter education instructors, and may limit the number of students per instructor in all required classes.

(d) The department may revoke the certificate of any instructor when, in the opinion of the department, it is in the best interest of the state to do so.

SEC. 60. Section 3054 of the Fish and Game Code is amended to read:

3054. The department shall furnish information on hunter safety, principles of conservation, and sportsmanship that shall be distributed free of charge to persons designated as hunter education instructors for instructional purposes.

SEC. 61. Section 3055 of the Fish and Game Code is repealed.

SEC. 62. Section 3055.1 of the Fish and Game Code is repealed.

SEC. 63. Section 3080 of the Fish and Game Code is amended to read:

3080. (a) For the purposes of this section, "donor intermediary" means a recipient who receives game birds or mammals from a donor to give to a charitable organization or charitable entity. A donor intermediary possessing game birds or mammals during a period other than the open season shall have the documentation described in paragraph (2) or (3) of subdivision (b). There is no required format for the documentation. Any written documentation containing the required information shall be deemed to comply with this section.

(b) The possession limit of any game bird or mammal may be possessed during a period other than the open season if one of the following conditions apply:

(1) The person has in his or her possession a hunting license and validated tag or tags for the species possessed, or copies thereof. The license and tag or tags shall have been issued to that person for the current or immediate past license year.

(2) The person received the game bird or mammal from a person described in paragraph (1), and the recipient has a photocopy of the donor's hunting license and the applicable validated tag or tags that has been signed and dated by the donor confirming the donation. The photocopied license and tag or tags shall be from the current or immediate past license year.

(3) The person received the game bird or mammal from a person described in paragraph (1), and the recipient has a signed and dated document confirming the donation that includes the donor's name, address, hunting license number, and applicable tag numbers for the species possessed. The license and tag or tags shall be for the current or immediate past license year.

(c) The documentation required by subdivision (b) shall be made available to the department as described in Section 2012. Charitable organizations or charitable entities receiving and distributing game birds or mammals for charitable or humane purposes, shall maintain the documentation described in paragraph (2) or (3) of subdivision (b) for one year from the date of disposal.

(d) Nothing in this section authorizes the possession of game birds or carcasses or parts thereof contrary to regulations issued pursuant to the federal Migratory Bird Treaty Act (16 U.S.C. Sec. 703 et seq.).

SEC. 64. Section 3087 of the Fish and Game Code is amended to read:

3087. (a) (1) Every person who prepares, stuffs, or mounts the skin of any fish, reptile, amphibian, bird, or mammal for another person for a fee shall make and keep an accurate and detailed record, as prescribed by regulations of the commission, regarding all fish, reptile, amphibian, bird, or mammal carcasses, skins, or parts thereof that are acquired, possessed, or stored for taxidermy purposes.

(2) The record required by this section shall be made at the time the fish, reptile, amphibian, bird, or mammal carcasses, skins, or parts thereof, are received, and shall include the name and address of each person from and to whom fish, reptile, amphibian, bird, or mammal carcasses, skins, or parts thereof are received or delivered and the number and species of all fish, reptile, amphibian, bird, or mammal carcasses, skins, or parts thereof received or delivered. The record shall be open for inspection at all times pursuant to regulations adopted by the commission.

(b) (1) Where a taxidermist has prepared, stuffed, or mounted the skin of any fish, reptile, amphibian, bird, or mammal for another person and that person does not pay the cost thereof, or take delivery thereof, the taxidermist may sell the skin only if the commission adopts regulations permitting the sale.

(2) The commission may adopt regulations permitting a sale pursuant to Chapter 6 (commencing with Section 3046) of Title 14 of Part 4 of Division 3 of the Civil Code, and may adopt any other regulations governing the sale, including, but not limited to, regulations that require a taxidermist to record, and provide to the department, the name and address of any person failing to pay for work performed on a skin, that list species of fish, reptiles, amphibians, birds, or mammals whose prepared skins shall not be sold, and that limit the sales price of prepared skins to the actual cost of preparation.

(3) The commission may adopt regulations permitting a sale of a prepared skin pursuant to this subdivision only if the commission also adopts regulations that require the posting of a notice or otherwise giving notice at the place of business of the taxidermist informing patrons of this subdivision and regulations adopted pursuant thereto.

SEC. 65. Section 3242 of the Fish and Game Code is amended to read:

3242. Upon submission of a completed application on a form approved by the commission, a commercial hunting club license shall be issued to any person upon the payment of a base fee of one hundred sixty-five dollars ($165), as adjusted under Section 713.

SEC. 66. Section 3304 of the Fish and Game Code is repealed.

SEC. 67. Section 3500 of the Fish and Game Code is amended to read:

3500. (a) Resident game birds are as follows:

(1) Doves of the genus Streptopelia, including, but not limited to, spotted doves, ringed turtledoves, and Eurasian collared-doves.

(2) California quail and varieties thereof.

(3) Gambel's or desert quail.

(4) Mountain quail and varieties thereof.

(5) Sooty or blue grouse and varieties thereof.

(6) Ruffed grouse.

(7) Sage hens or sage grouse.

(8) Hungarian partridges.

(9) Red-legged partridges including the chukar and other varieties.

(10) Ring-necked pheasants and varieties thereof.

(11) Wild turkeys of the order Galliformes.

(b) Migratory game birds are as follows:

(1) Ducks and geese.

(2) Coots and gallinules.

(3) Jacksnipe.

(4) Western mourning doves.

(5) White-winged doves.

(6) Band-tailed pigeons.

(c) References in this code to "game birds" means both resident game birds and migratory game birds.

SEC. 68. Section 3680 of the Fish and Game Code is amended to read:

3680. Any person, other than the owner thereof, who at any time, by any means or in any manner, purposely takes any racing pigeon currently registered with a recognized organization, is guilty of a misdemeanor. However, the incidental take of registered racing pigeons with the shooting or taking of wild band-tailed pigeons or domestic pigeons (Columba livia), is not a violation of this section.

SEC. 69. Section 3683 of the Fish and Game Code is amended to read:

3683. Upland game bird species include both of the following:

(a) All of the following resident game birds:

(1) Doves of the genus Streptopelia, including, but not limited to, spotted doves, ringed turtledoves, and Eurasian collared doves.

(2) California quail and varieties thereof.

(3) Gambel's or desert quail.

(4) Mountain quail and varieties thereof.

(5) Sooty or blue grouse.

(6) Ruffed grouse.

(7) Sage hens or sage grouse.

(8) White-tailed ptarmigan.

(9) Hungarian partridges.

(10) Red-legged partridges including the chukar and other varieties.

(11) Ring-necked pheasants and varieties thereof.

(12) Wild turkeys.

(b) All of the following migratory game birds:

(1) Jacksnipe.

(2) Western mourning doves.

(3) White-winged doves.

(4) Band-tailed pigeons.

SEC. 70. Section 3801 of the Fish and Game Code is amended to read:

3801. Notwithstanding Section 3007 or any other provision of this code or regulations made pursuant thereto requiring the possession of a hunting license, a landowner or lessee or agent of either in immediate possession of written authority from the landowner or lessee, shall not be required to obtain a hunting license or a depredation permit to take the following nongame birds on land owned or leased by the landowner or lessee. Hunters otherwise taking the following nongame birds shall be licensed pursuant to Section 3007. The following nongame birds

taken in compliance with this section may be taken and possessed by any person at any time, except as provided in Section 3000:

(a) English sparrows (Passer domesticus).

(b) Starlings (Sturnus vulgaris).

SEC. 71. Section 3801.6 of the Fish and Game Code is amended to read:

3801.6. (a) Except as otherwise provided in this code or regulations made pursuant thereto, it is unlawful to possess the carcass, skin, or parts of any nongame bird. The feathers, carcass, skin, or parts of any nongame bird possessed by any person in violation of any of the provisions of this code shall be seized by the department and delivered to a California Native American tribal government or a scientific or educational institution, used by the department, or destroyed.

(b) (1) It shall be an affirmative defense to a violation of this section if the possessor of feathers, carcass, skin, or parts of a nongame bird legally acquired the feathers, carcass, skin, or parts, possesses them for tribal, cultural, or spiritual purposes, and satisfies either of the following criteria:

(A) The possessor is an enrolled member of a federally recognized Native American tribe or nonfederally recognized California Native American tribe listed on the California Tribal Consultation List maintained by the Native American Heritage Commission who has, in his or her immediate possession, valid tribal identification or other irrefutable proof of current enrollment.

(B) The possessor has a certificate of degree of Indian blood issued by the United States Bureau of Indian Affairs in his or her immediate possession.

(2) Nothing in this section allows any person to sell nongame bird feathers, carcasses, skins, or parts. Native Americans meeting the affirmative defense requirements may salvage dead nongame birds so long as the person salvaging these birds does not possess, nor is in the company of any person who possesses, a firearm, BB device as defined in subdivision (g) of Section 12001 of the Penal Code, trap, snare, net archery equipment, device capable of discharging a projectile, or any apparatus designed to take birds. Salvaging shall not take place by any person involved in the take of the nongame bird to be salvaged, any person present at the time of the take, or by any person who received related information originating from any person present at the time of the take of the nongame bird. Salvaging pursuant to this subdivision shall not take place if a bird has been struck with any thrown or discharged projectile, trapped, netted, caught, or snared.

(c) Notwithstanding subdivisions (a) and (b), any officer deputized pursuant to this code may interrupt any ongoing salvaging of dead

nongame carcasses, feathers, skins, or parts if, in the officer's judgment, the activity causes a public disruption, safety hazard, or is detrimental to the ability of the department to prevent a possible violation of this section. The officer may seize any of the salvaged feathers, carcasses, skins, or parts and has the option of returning them to the general location from where they were salvaged.

SEC. 72. Section 3803 of the Fish and Game Code is amended to read:

3803. The department may take any individual bird, or birds of any species, that, in its opinion, are unduly preying upon any species of bird, mammal, reptile, amphibian, or fish.

SEC. 73. Section 4000 of the Fish and Game Code is amended to read:

4000. The following are fur-bearing mammals: pine marten, fisher, mink, river otter, gray fox, red fox, kit fox, raccoon, beaver, badger, and muskrat.

SEC. 74. Section 4001 of the Fish and Game Code is repealed.

SEC. 75. Section 4005 of the Fish and Game Code is amended to read:

4005. (a) Except as otherwise provided in this section, every person, other than a fur dealer, who traps fur-bearing mammals or nongame mammals, designated by the commission or who sells raw furs of those mammals, shall procure a trapping license. "Raw fur" means any fur, pelt, or skin that has not been tanned or cured, except that salt-cured or sun-cured pelts are raw furs.

(b) The department shall develop standards that are necessary to ensure the competence and proficiency of applicants for a trapping license. No person shall be issued a license until he or she has passed a test of his or her knowledge and skill in this field.

(c) Persons trapping mammals in accordance with Section 4152 or 4180 are not required to procure a trapping license except when providing trapping services for profit.

(d) No raw furs taken by persons providing trapping services for profit may be sold.

(e) The license requirement imposed by this section does not apply to any of the following:

(1) Officers or employees of federal, county, or city agencies or the department, when acting in their official capacities, or officers or employees of the Department of Food and Agriculture when acting pursuant to the Food and Agricultural Code pertaining to pests or pursuant to Article 6 (commencing with Section 6021) of Chapter 9 of Part 1 of Division 4 of the Food and Agricultural Code.

(2) Structural pest control operators licensed pursuant to Chapter 14 (commencing with Section 8500) of Division 3 of the Business and Professions Code, when trapping rats, mice, voles, moles, or gophers.

(3) Persons and businesses licensed or certified by the Department of Pesticide Regulation pursuant to Chapter 4 (commencing with Section 11701) and Chapter 8 (commencing with Section 12201) of Division 6 of, and Chapter 3.6, (commencing with Section 14151) of Division 7 of, the Food and Agricultural Code, when trapping rats, mice, voles, moles, or gophers.

(f) Except for species that are listed pursuant to Chapter 1.5 (commencing with Section 2050) of Division 3 or Chapter 8 (commencing with Section 4700), nothing in this code or regulations adopted pursuant thereto shall prevent or prohibit a person from trapping any of the following animals:

(1) Gophers.

(2) House mice.

(3) Moles.

(4) Rats.

(5) Voles.

SEC. 76. Section 4012 of the Fish and Game Code is amended to read:

4012. It is unlawful to take any red fox for profitmaking purposes.

SEC. 77. Section 4152 of the Fish and Game Code is amended to read:

4152. (a) Except as provided in Section 4005, nongame mammals and black-tailed jackrabbits, muskrats, subspecies of red fox that are not the native Sierra Nevada red fox (Vulpes vulpes necator), and red fox squirrels that are found to be injuring growing crops or other property may be taken at any time or in any manner in accordance with this code and regulations adopted pursuant to this code by the owner or tenant of the premises or employees and agents in immediate possession of written permission from the owner or tenant thereof. They may also be taken by officers or employees of the Department of Food and Agriculture or by federal, county, or city officers or employees when acting in their official capacities pursuant to the Food and Agricultural Code pertaining to pests, or pursuant to Article 6 (commencing with Section 6021) of Chapter 9 of Part 1 of Division 4 of the Food and Agricultural Code. Persons taking mammals in accordance with this section are exempt from Section 3007, except when providing trapping services for a fee. Raw furs, as defined in Section 4005, that are taken under this section, shall not be sold.

(b) Traps used pursuant to this section shall be inspected and all animals in the traps shall be removed at least once daily. The inspection

and removal shall be done by the person who sets the trap or the owner of the land where the trap is set or an agent of either.

SEC. 78. Section 4180 of the Fish and Game Code is amended to read:

4180. (a) Except as provided for in Section 4005, fur-bearing mammals that are injuring property may be taken at any time and in any manner in accordance with this code or regulations made pursuant to this code. Raw furs, as defined in Section 4005, that are taken under this section, shall not be sold.

(b) Traps used pursuant to this section shall be inspected and all animals in the traps shall be removed at least once daily. The inspection and removal shall be done by the person who sets the trap or the owner of the land where the trap is set or an agent of either.

SEC. 81. Section 4181.5 of the Fish and Game Code is amended to read:

4181.5. (a) Any owner or tenant of land or property that is being damaged or destroyed or is in immediate danger of being damaged or destroyed by deer may apply to the department for a permit to kill those deer. The department, upon satisfactory evidence of that damage or destruction, actual or immediately threatened, shall issue a revocable permit for the taking and disposition of those deer for a designated period not to exceed 60 days under regulations promulgated by the commission.

(b) The regulations of the commission shall include provisions concerning the type of weapons to be used to kill the deer. The weapons shall be those as will ensure humane killing, but the regulations of the commission shall provide for the use of a sufficient variety of weapons to permit the designation of particular types to be used in any particular locality commensurate with the need to protect persons and property. Firearms using .22-caliber rimfire cartridges may be used only when authorized by the director or his designee. No pistols shall be used. The caliber and type of weapon to be used by each permittee shall be specified in each permit by the issuing officer who shall take into consideration the location of the area, the necessity for clean kills, the safety factor, local firearms ordinances, and other factors that apply. Rifle ammunition used shall have expanding bullets; shotgun ammunition shall have only single slugs, or, if authorized by the department, 0 or 00 buckshot.

(c) The department shall issue tags similar to those provided for in Section 4331 at the same time the permit is issued. A permittee under this section shall carry the tags while hunting deer, and upon the killing of any deer, shall immediately fill out both parts of the tag and punch out clearly the date of the kill. One part of the tag shall be immediately attached to the antlers of antlered deer or to the ear of any other deer and kept attached until 10 days after the permit has expired. The other part

of the tag shall be immediately sent to the department after it has been countersigned by any person authorized by Section 4341.

(d) A permit issued pursuant to this section may be renewed only after a finding by the department that further damage has occurred or will occur unless that permit is renewed. A person seeking renewal of the permit shall account for all prior tags issued at the time he or she received any prior permits, and if any tags are unused, he or she shall show either that any deer killed could not reasonably be tagged or why the killing was not accomplished within the allotted time and why that killing would be accomplished under a new time period.

SEC. 82. Section 4186 of the Fish and Game Code is amended to read:

4186. Nothing in this code prohibits the owner or tenant of land, or any person authorized in writing by that owner or tenant, from taking cottontail or brush rabbits during any time of the year when damage to crops or forage is being experienced on that land. Any person other than the owner or tenant of the land shall have in possession when transporting rabbits from the property, written authority from the owner or tenant of land where those rabbits were taken. Rabbits taken under this section shall not be sold.

SEC. 83. Section 4330 of the Fish and Game Code is amended to read:

4330. It is unlawful to take any deer without first procuring a deer tag or permit authorizing the taking of that deer.

SEC. 84. Section 4331 of the Fish and Game Code is amended to read:

4331. The commission may determine the design and makeup of the deer tag and prescribe the procedures for issuance and use.

SEC. 85. Section 4332 of the Fish and Game Code is amended to read:

4332. (a) Any resident of this state, 12 years of age or over, who possesses a valid hunting license, may procure one tag for the taking of one deer by one person during the current license year, upon payment of the base fee of ten dollars ($10) for the license year beginning July 1, 1986, and the base fee as adjusted under Section 713 for subsequent license years.

(b) Any nonresident of this state, 12 years of age or over, who possesses a valid hunting license, may procure one tag for the taking of one deer by one person during the current license year, upon payment of the base fee of one hundred dollars ($100) for the license year beginning July 1, 1986, and the base fee as adjusted under Section 713 for subsequent license years.

(c) If provided in regulations adopted by the commission under Section 200, any resident of this state, 12 years of age or over, who possesses a deer tag may procure one additional deer tag for the taking of one additional deer during the current license season, upon payment of the base fee of twelve dollars and fifty cents ($12.50) for the license years beginning July 1, 1986, and the base fee as adjusted under Section 713 for subsequent license years.

(d) If provided in regulations adopted by the commission under Section 200, any nonresident of this state, 12 years of age or over, who possesses a deer tag may procure one additional deer tag for the taking of one additional deer during the current license season, upon payment of the base fee of one hundred dollars ($100) for the license year beginning July 1, 1986, and the base fee as adjusted under Section 713 for subsequent license years.

(e) The revenue received pursuant to this section shall be deposited in the Fish and Game Preservation Fund, and, notwithstanding Section 13340 of the Government Code, 54 percent of the amount deposited in that fund pursuant to this section each year is hereby continuously appropriated to the department for expenditure for the purpose of implementing the deer herd management plans prepared pursuant to Chapter 5 (commencing with Section 450) of Division 1.

The amount appropriated for implementation of deer herd management plans by this subdivision is intended to be in addition to, and not a replacement for, the funds budgeted in that year or the previous year to the department from the Fish and Game Preservation Fund for deer management.

SEC. 86. Section 4333 of the Fish and Game Code is amended to read:

4333. Tags are valid only during that portion of the current hunting license year in which deer may be taken or possessed in any area.

SEC. 87. Section 4334 of the Fish and Game Code is amended to read:

4334. The commission shall annually direct the department to authorize, pursuant to Sections 1054.6 and 1054.8, the sale of not more than 10 deer tags solely for the purpose of raising funds for programs and projects to benefit deer. These tags may be sold to residents or nonresidents of the State of California at auction or by any other method and are not subject to the fees prescribed by Section 4332. Notwithstanding Section 13340 of the Government Code, all funds derived from the sale of these tags is hereby continuously appropriated to the department to be used for the Deer Herd Management Plan Implementation Program. These funds shall augment, not supplant, any other funds appropriated to the department for the preservation,

restoration, utilization, and management of deer. All revenues derived from the sale of these tags shall be remitted to the department by the seller.

SEC. 88. Section 4336 of the Fish and Game Code is amended to read:

4336. (a) The person to whom a deer tag has been issued shall carry the tag while hunting deer. Upon the killing of any deer, that person shall immediately fill out the tag completely, legibly, and permanently, and cut out or punch out and completely remove notches or punch holes for the month and date of the kill. The deer tag shall be immediately attached to the antlers of antlered deer or to the ear of any other deer and kept attached during the open season and for 15 days thereafter. The holder of the deer tag shall immediately, upon harvesting a deer, notify the department in a manner specified by the commission.

(b) Except as otherwise provided by this code or regulation adopted pursuant to this code, it is unlawful to possess any untagged deer.

SEC. 89. Section 4340 of the Fish and Game Code is amended to read:

4340. (a) Any person who is convicted of a violation of any provision of this code, or of any rule, regulation, or order made or adopted under this code, relating to deer shall forfeit his or her deer tags, and no new deer tags shall be issued to that person during the then current license year for hunting licenses.

(b) No person described in subdivision (a) may apply for deer tags for the following license year.

SEC. 90. Section 4341 of the Fish and Game Code is amended to read:

4341. Any person legally killing a deer in this state shall have the tag countersigned by a person employed in the department, a person designated for this purpose by the commission, or by a notary public, postmaster, postmistress, peace officer, or an officer authorized to administer oaths, before transporting such deer, except for the purpose of taking it to the nearest person authorized to countersign the tag, on the route being followed from the point where the deer is taken.

SEC. 91. Section 4652 of the Fish and Game Code is amended to read:

4652. It is unlawful to take any wild pig, except as provided in Section 4181, without first procuring a tag authorizing the taking of that wild pig in accordance with this chapter.

SEC. 92. Section 4653 of the Fish and Game Code is amended to read:

4653. The department may determine the design and type of information to be included on the wild pig tag and prescribe the procedures for the issuance and use of the tag.

SEC. 93. Section 4655 of the Fish and Game Code is amended to read:

4655. Wild pig tags are valid only during that portion of the current hunting license year in which wild pigs may be taken or possessed in any area of the state.

SEC. 94. Section 4657 of the Fish and Game Code is amended to read:

4657. The holder of a wild pig tag shall keep the tag in his or her possession while hunting wild pig. Before the taking of any wild pig, the holder of a wild pig tag, except for wild pig tags issued through the Automated License Data System, shall legibly write or otherwise affix his or her hunting license number to the wild pig tag. Upon the killing of any wild pig, the date of the kill shall be clearly marked by the holder of the tag on both parts of the tag. Before transporting the pig, a tag shall be attached to the carcass by the holder of the tag. The holder of the wild pig tag shall immediately, upon harvesting a pig, notify the department in a manner specified by the commission.

SEC. 95. Section 4750 of the Fish and Game Code is amended to read:

4750. It is unlawful to take any bear with firearm, trap, or bow and arrow without first procuring a tag authorizing the taking of that bear in accordance with this chapter, but no iron or steel-jawed or any type of metal-jawed trap shall be used to take any bear.

SEC. 96. Section 4751 of the Fish and Game Code is amended to read:

4751. (a) Any resident of this state, 12 years of age or over, who possesses a valid hunting license, may procure the number of bear tags corresponding to the number of bear that may legally be taken by one person during the current license year, upon payment of a base fee of fifteen dollars ($15), as adjusted under Section 713, for each bear tag.

(b) Any nonresident of this state, 12 years of age or over, who possesses a valid California hunting license, may procure the number of bear tags corresponding to the number of bear that may be legally taken by one person during the current license year upon payment of the base fee of one hundred five dollars ($105), as adjusted under Section 713, for each bear tag.

SEC. 97. Section 4752 of the Fish and Game Code is amended to read:

4752. Bear tags are valid only during that portion of the current hunting license year in which bear may be taken or possessed in any district.

SEC. 98. Section 4753 of the Fish and Game Code is amended to read:

4753. The person to whom a bear tag has been issued shall carry the tag while hunting bear. Upon the killing of any bear, that person shall immediately fill out the tag completely, legibly, and permanently, and cut out or punch out and completely remove notches or punch holes for the month and the date of the kill. One part of the tag shall be immediately attached to the ear of the bear and kept attached during the open season and for 15 days thereafter. The holder of the bear tag shall immediately, upon harvesting a bear, notify the department in a manner specified by the commission. Except as otherwise provided by this code or regulations adopted pursuant to this code, it is unlawful to possess any untagged bear.

SEC. 99. Section 4754 of the Fish and Game Code is amended to read:

4754. (a) Any person who is convicted of a violation of any provision of this code, or of any rule, regulation, or order made or adopted under this code, relating to bears shall forfeit his or her bear tags, and new bear tags shall not be issued to that person during the then current license year for hunting licenses.

(b) A person described in subdivision (a) shall not apply for bear tags for the following license year.

SEC. 100. Section 4755 of the Fish and Game Code is amended to read:

4755. Any person legally killing a bear in this state shall have the tag countersigned by a fish and game commissioner, a person employed in the department, a person designated for this purpose by the commission, or by a notary public, postmaster, postmistress, peace officer or by an officer authorized to administer oaths, before transporting that bear except for the purpose of taking it to the nearest officer authorized to countersign the tag, on the route being followed from the point where the bear is taken.

SEC. 101. Section 4902 of the Fish and Game Code is amended to read:

4902. (a) The commission may adopt all regulations necessary to provide for biologically sound management of Nelson bighorn sheep (subspecies Ovis canadensis nelsoni).

(b) (1) After the plans developed by the department pursuant to Section 4901 for the management units have been submitted, the commission may authorize sport hunting of mature Nelson bighorn rams.

Before authorizing the sport hunting, the commission shall take into account the Nelson bighorn sheep population statewide, including the population in the management units designated for hunting.

(2) Notwithstanding Section 219, the commission shall not, however, adopt regulations authorizing the sport hunting in a single year of more than 15 percent of the mature Nelson bighorn rams in a single management unit, based on the department's annual estimate of the population in each management unit.

(c) The fee for a tag to take a Nelson bighorn ram may be determined by the commission, but shall not exceed five hundred dollars ($500).

(d) The commission shall annually direct the department to authorize not more than three of the tags available for issuance that year to take Nelson bighorn rams for the purpose of raising funds for programs and projects to benefit Nelson bighorn sheep. These tags may be sold to residents or nonresidents of the State of California at auction or by another method and shall not be subject to the fee limitation prescribed in subdivision (c). Commencing with tags sold for the 1993 hunting season, if more than one tag is authorized, the department shall designate a nonprofit organization organized pursuant to the laws of this state, or the California chapter of a nonprofit organization organized pursuant to the laws of another state, as the seller of not less than one of these tags. The number of tags authorized for the purpose of raising funds pursuant to this subdivision, if more than one, shall not exceed 15 percent of the total number of tags authorized pursuant to subdivision (b).

(e) No tag issued pursuant to this section shall be valid unless and until the licensee has successfully completed a prehunt hunter familiarization and orientation and has demonstrated to the department that he or she is familiar with the requisite equipment for participating in the hunting of Nelson bighorn rams, as determined by the commission. The orientation shall be conducted by the department at convenient locations and times preceding each season, as determined by the commission.

SEC. 102. Section 4904 of the Fish and Game Code is amended to read:

4904. (a) The department shall biennially report the following to the Legislature:

(1) The management units for which plans have been developed pursuant to Section 4901.

(2) A summary of the data from the annual count conducted by the department for the purposes of subdivision (b) of Section 4902.

(3) The number of tags issued in the preceding season, and the number of mature Nelson bighorn rams taken under valid tags in the preceding season.

(4) Any instance known to the department of the unlawful or unlicensed taking of a Nelson bighorn sheep in this state and the disposition of any prosecution therefor.

(5) The number of Nelson bighorn sheep relocated during the previous year, the area where reintroduced, a statement on the success of the reintroduction, and a brief description of any reintroduction planned for the following year.

(b) The report shall consist of a compilation of the results of the ongoing study conducted pursuant to this section each year since the enactment of this chapter and an assessment of the environmental impact of the hunting of Nelson bighorn sheep on the herds.

SEC. 103. Section 5020 of the Fish and Game Code is repealed.

SEC. 104. Section 5502 of the Fish and Game Code is repealed.

SEC. 105. Section 5514 of the Fish and Game Code is amended to read:

5514. (a) It is unlawful to kill or retain in possession any chinook, coho, or kokanee salmon or any steelhead that has not taken the bait or lure in its mouth, in inland waters.

(b) Any chinook, coho, or kokanee salmon or any steelhead hooked other than in its mouth in inland waters shall be released unharmed.

SEC. 107. Section 5652 of the Fish and Game Code is amended to read:

5652. (a) It is unlawful to deposit, permit to pass into, or place where it can pass into the waters of the state, or to abandon, dispose of, or throw away, within 150 feet of the high water mark of the waters of the state, any cans, bottles, garbage, motor vehicle or parts thereof, rubbish, litter, refuse, waste, debris, or the viscera or carcass of any dead mammal, or the carcass of any dead bird.

(b) The abandonment of any motor vehicle in any manner that violates this section shall constitute a rebuttable presumption affecting the burden of producing evidence that the last registered owner of record, not having complied with Section 5900 of the Vehicle Code, is responsible for that abandonment and is thereby liable for the cost of removal and disposition of the vehicle. This section prohibits the placement of a vehicle body on privately owned property along a streambank by the property owner or tenant for the purpose of preventing erosion of the streambank.

(c) This section does not apply to a refuse disposal site that is authorized by the appropriate local agency having jurisdiction or to the depositing of those materials in a container from which the materials are routinely removed to a legal point of disposal.

(d) This section shall be enforced by all law enforcement officers of this state.

SEC. 108. Section 6301 of the Fish and Game Code is amended to read:

6301. The department may enter at any time any vehicle, container, warehouse, depot, ship, or growing area where any fish, amphibians, or aquatic plants are held, transported, or stored, for the purpose of making a regulatory inspection to ascertain whether those fish, amphibians, or aquatic plants are infected, diseased, or parasitized, or to determine if aquaculture products are being or have been legally imported, transported, or possessed.

SEC. 109. Section 7145 of the Fish and Game Code is amended to read:

7145. (a) Except as otherwise provided in this article, every person 16 years of age or older who takes any fish, reptile, or amphibian for any purpose other than profit shall first obtain a valid license for that purpose and shall have that license on his or her person or in his or her immediate possession or where otherwise specifically required by law or regulation to be kept when engaged in carrying out any activity authorized by the license. In the case of a person diving from a boat, the license may be kept in the boat, or in the case of a person diving from the shore, the license may be kept within 500 yards of the shore.

(b) (1) This section does not apply to an owner of privately owned real property, or the owner's invitee, who, without providing compensation, takes fish for purposes other than profit from a lake or pond that is wholly enclosed by that owner's real property and that is located offstream and does not at any time derive water from, or supply water to, any permanent or intermittent artificial or natural lake, pond, stream, wash, canal, river, creek, waterway, aqueduct, or similar water conveyance system of the state. Access and control of the real property shall be under the direct authority of the owner and not that of another person or entity.

(2) This subdivision does not, and shall not be construed to, authorize the introduction, migration, stocking, or transfer of aquatic species, prohibited species, or any other nonnative or exotic species into state waters or waterways. This subdivision does not supersede or otherwise affect any provision of law that governs aquaculture, including, but not limited to, the operation of trout farms, or any activity that is an adjunct to or a feature of, or that is operated in conjunction with, any other enterprise operated for a fee, including, but not limited to, private parks or private recreation areas.

SEC. 110. Section 7147 of the Fish and Game Code is amended to read:

7147. The owner or operator of a boat or vessel licensed pursuant to Section 7920 shall not permit any person to fish from that boat or vessel

unless that person has, in his or her possession, a valid California sport fishing license and any required stamp, report card, or validation issued pursuant to this code.

SEC. 111. Section 7149.2 of the Fish and Game Code is amended to read:

7149.2. (a) In addition to Sections 714, 7149, and 7149.05, the department shall issue a lifetime sport fishing license under this section. A lifetime sport fishing license authorizes the taking of fish, amphibians, or reptiles anywhere in this state in accordance with the law for purposes other than profit for the life of the person to whom issued unless revoked for a violation of this code or regulations adopted under this code. A lifetime sport fishing license is not transferable. A lifetime sport fishing license does not include any special tags, stamps, or fees.

(b) A lifetime sport fishing license may be issued to residents of this state, as follows:

(1) To a person 62 years of age or over, upon payment of a base fee of three hundred sixty-five dollars ($365).

(2) To a person 40 years of age or over and less than 62 years of age, upon payment of a base fee of five hundred forty dollars ($540).

(3) To a person 10 years of age or over and less than 40 years of age upon payment of a base fee of six hundred dollars ($600).

(4) To a person less than 10 years of age upon payment of a base fee of three hundred sixty-five dollars ($365).

(c) Nothing in this section requires a person less than 16 years of age to obtain a license to take fish, amphibians, or reptiles for purposes other than profit.

(d) Nothing in this section exempts a license applicant from meeting other qualifications or requirements otherwise established by law for the privilege of sport fishing.

(e) Upon payment of a base fee of two hundred forty-five dollars ($245), a person holding a lifetime sport fishing license or lifetime sportsman's license shall be entitled annually to the privileges afforded to a person holding a second-rod stamp or validation issued pursuant to Section 7149.4 or 7149.45, a sport fishing ocean enhancement stamp or validation issued pursuant to paragraph (1) of subdivision (a) of Section 6596 or 6596.1, one steelhead trout report restoration card issued pursuant to Section 7380, a Bay-Delta sport fishing enhancement stamp or validation issued pursuant to Section 7360 or 7360.1, and one salmon punchcard issued pursuant to regulations adopted by the commission. Lifetime privileges issued pursuant to this subdivision are not transferable.

(f) The base fees specified in this section are applicable commencing January 1, 2004, and shall be adjusted annually thereafter pursuant to Section 713.

SEC. 112. Section 7149.4 of the Fish and Game Code is amended to read:

7149.4. (a) It is unlawful for any person to fish with two rods without first obtaining a second-rod sport fishing stamp, in addition to a valid California sport fishing license and any applicable stamp issued pursuant to subdivision (a) of Section 7149, and having that stamp affixed to his or her valid sport fishing license. Any person who has a valid second-rod sport fishing stamp affixed to his or her valid sport fishing license may fish with two rods in inland waters in any sport fishery in which the regulations of the commission provide for the taking of fish by angling, except those waters in which only artificial lures or barbless hooks may be used.

(b) The department or an authorized license agent shall issue a second-rod sport fishing stamp upon payment of a base fee of seven dollars and fifty cents ($7.50) during the 1995 calendar year and subsequent years, as adjusted under Section 713.

(c) This section does not apply to licenses, permits, reservations, tags, or other entitlements issued through the Automated License Data System.

SEC. 113. Section 7149.45 of the Fish and Game Code is amended to read:

7149.45. (a) It is unlawful for any person to fish with two rods without first obtaining a second-rod sport fishing validation, in addition to a valid California sport fishing license validation, and having that validation affixed to his or her valid sport fishing license. Any person who has a valid second-rod sport fishing validation affixed to his or her valid sport fishing license may fish with two rods in inland waters in any sport fishery in which the regulations of the commission provide for the taking of fish by angling, except those waters in which only artificial lures or barbless hooks may be used.

(b) The department or an authorized license agent shall issue a second-rod sport fishing validation upon payment of a base fee of seven dollars and fifty cents ($7.50) during the 1995 calendar year and subsequent years, as adjusted under Section 713.

(c) This section applies only to licenses, permits, reservations, tags, and other entitlements issued through the Automated License Data System.

SEC. 114. Section 7153 of the Fish and Game Code is amended to read:

7153. (a) A sport fishing license is not required to take fish by any legal means, for any purpose other than profit, from a public pier, as

defined by the commission, in the ocean waters of the state, or while angling at an aquaculture facility site that is registered pursuant to Section 235 of Title 14 of the California Code of Regulations.

(b) For purposes of this section, "ocean waters" include, but are not limited to, the open waters adjacent to the ocean and any island; the waters of any open or enclosed bay contiguous to the ocean; the San Francisco and San Pablo Bays, with any tidal bay belonging thereto; and any slough or estuary, if found between the Golden Gate Bridge and the Benicia-Martinez Bridge.

SEC. 115. Section 7180 of the Fish and Game Code is amended to read:

7180. (a) Any person taking fish or amphibians for purposes other than profit from or on a boat or other floating device on the waters of the Colorado River and on adjacent waters, except canals, drains, or ditches used to transport water used for irrigation or domestic purposes, shall have in his or her possession a valid sport fishing license issued by either the State of Arizona or State of California.

(b) In addition to either of the licenses, a person taking fish or amphibians as indicated shall have in his or her possession a valid Colorado River special use stamp permanently affixed to his or her valid sport fishing license. If he or she is a person having in his or her possession a valid California sport fishing license he or she shall have an Arizona special use stamp to fish legally the waters described above. If he or she is a person having in his or her possession a valid Arizona sport fishing license, he or she shall have a California special use stamp to fish legally the waters described above.

(c) A special use stamp, when accompanied by the proper license, permits fishing in any portion of those waters, and permits fishermen to enter the waters from any point.

The fee for a Colorado River special use stamp is three dollars ($3).

(d) This section does not apply to licenses, permits, reservations, tags, or other entitlements issued through the Automated License Data System.

SEC. 116. Section 7852.27 of the Fish and Game Code is amended to read:

7852.27. At all times when engaged in any activity described in Section 7850 or Article 7 (commencing with Section 8030) for which a commercial fishing license is required, the licensee shall have in his or her possession, or immediately available to the licensee, a valid driver's license or identification card issued to him or her by the Department of Motor Vehicles or by the entity issuing driver's licenses from the licensee's state of domicile. A current passport may be used in lieu of a valid driver's license or identification card by a holder of a valid nonresident commercial fishing license issued pursuant to subdivision

(b) of Section 7852. The licensee's driver's license, identification card or, if applicable, passport, shall be exhibited upon demand to any person authorized by the department to enforce this code or regulations adopted pursuant thereto.

SEC. 117. Section 8022 of the Fish and Game Code is amended to read:

8022. (a) The receipts, reports, or other records filed with the department pursuant to Article 2 (commencing with Section 7700) to Article 7.5 (commencing with Section 8040), inclusive, and the information contained therein, shall, except as otherwise provided in this section, be confidential, and the records shall not be public records. Insofar as possible, the information contained in the records shall be compiled or published as summaries, so as not to disclose the individual record or business of any person.

(b) Notwithstanding any other provision of law, the department may release the confidential information described in subdivision (a) to any federal agency responsible for fishery management activities, provided the information is used solely for the purposes of enforcing fishery management provisions and provided the information will otherwise remain confidential. The department may also release this information in accordance with Section 391 or pursuant to a court order, to a public or private postsecondary institution engaged in research under the terms of a legally binding confidentiality agreement, or under other conditions as the commission by regulation may provide.

(c) All forms, logs, books, covers, documents, electronic data, software, and other records of any kind issued or otherwise supplied, directly or indirectly, by the department, the purpose of which is to provide a means for reports, records, or other information to be filed with the department pursuant to Article 2 (commencing with Section 7700) to Article 7.5 (commencing with Section 8040), inclusive, continue to be the property of the department. Those forms, logs, books, covers, documents, electronic data, software, other records, or portions thereof remain the property of the department whether used, unused, attached, or detached from their original binding, packaging, or other medium and shall be immediately surrendered upon demand to a peace officer of the department acting in his or her official capacity, without being altered in any manner.

SEC. 118. Section 8030 of the Fish and Game Code is amended to read:

8030. Any person who engages in any business for profit involving fish shall be licensed pursuant to this article, except as follows:

(a) A commercial fisherman who sells fish only to persons licensed under this article to purchase or receive fish from commercial fishermen

and who does not engage in any activity described in Section 8034, 8035, or 8036 unless licensed to engage in both activities.

(b) A person licensed pursuant to Section 8460 who only takes, transports, or sells live freshwater fish for bait.

(c) A person who sells fish or aquaculture products only at retail to the ultimate consumer if that person does not conduct any activities described in Section 8033, 8035, or 8036.

(d) Pursuant to Division 12 (commencing with Section 15000), a person who deals only in products of aquaculture.

(e) A person who deals only with nonnative live products that are not utilized for human consumption but that are utilized solely for pet industry or hobby purposes and who does not engage in the activities described in Section 8033.1.

(f) A person who is employed by the fish receiver to unload fish or fish products from a commercial fishing boat at a dock.

(g) A person who purchases, sells, takes, or receives live marine fish for use as live bait, that are not brought ashore, and who does not engage in any activity described in Section 8033, 8033.1, 8034, 8035, or 8036.

(h) A person who does not purchase or obtain fish, but who acts as an agent for others while negotiating purchases, or sales of fish in return for a fee, commission, or other compensation.

SEC. 118.5. Section 8051.4 of the Fish and Game Code is amended to read:

8051.4. (a) The landing tax collected pursuant to former Section 8051.3 shall be deposited in the Fish and Game Preservation Fund and shall be used only for the Abalone Resources Restoration and Enhancement Program. The department shall maintain internal accounts necessary to ensure that the funds are disbursed for the purposes in this subdivision. No more of the landing tax collected pursuant to former Section 8051.3 than an amount equal to the regularly approved department indirect overhead rate may be used for administration by the department. Any interest on the revenues from the landing tax collected pursuant to former Section 8051.3 shall be deposited in the fund and used for the purposes in this subdivision.

(b) A Commercial Abalone Advisory Committee shall be appointed by the director, consisting of six members who shall serve without compensation or reimbursement of expenses. One of the members shall be a person who was required to pay landing taxes pursuant to Section 8051.3 during the 1996–97 permit year. Each of the five remaining members shall have held a commercial abalone diving permit during the 1996–97 permit year, and represent the following groups and organizations:

(1) One member shall be selected from divers with a place of residence north of Point Sur.

(2) One member shall be selected from divers with a place of residence south of Point Dume.

(3) One member shall be selected from divers with a place of residence south of Point Sur and north of Point Dume.

(4) Two members shall be selected from the membership of the California Abalone Association without regard to place of residence. This subdivision does not prohibit persons selected pursuant to paragraph (1), (2), or (3) from also being members of the California Abalone Association.

(c) The advisory committee shall make recommendations to the director and the director shall use his or her best efforts to implement those recommendations for activities to be conducted with funds collected pursuant to Section 8051.3, and those funds collected from any previous calendar year shall be available for use for those activities.

(d) This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2013, deletes or extends that date.

SEC. 119. Section 8250.5 of the Fish and Game Code is amended to read:

8250.5. (a) Subject to this article and Article 1 (commencing with Section 9000) of Chapter 4, a lobster trap, as described in Section 9010, may be used to take lobster for commercial purposes under a lobster permit issued pursuant to Section 8254.

(b) The following species may be taken incidentally in lobster traps being fished under the authority of a lobster permit issued pursuant to Section 8254, and any other species taken incidentally shall be immediately released back to the water:

(1) Crab, other than Dungeness crab.

(2) Kellet's whelk.

(3) Octopus.

(c) Spiny lobsters taken in the manner commonly known as skindiving or by a person using self-contained underwater breathing apparatus shall not be sold.

SEC. 120. Section 8284 of the Fish and Game Code is amended to read:

8284. (a) Subject to this article and Article 1 (commencing with Section 9000) of Chapter 4, crab traps, as described in Section 9011, may be used to take Dungeness crab for commercial purposes. Any fish may be taken incidentally in crab traps being used to take Dungeness crab.

(b) Any other species taken incidentally in a crab trap being used to take rock crab, except as provided in subdivision (c), shall be immediately released back to the water.

(c) The following species may be taken incidentally in crab traps being used to take rock crab under a permit issued pursuant to Section 9001 in Districts 19 and 118.5:

(1) Kellet's whelk.

(2) Octopus.

(3) Crabs, other than of the genus Cancer.

SEC. 121. Section 8372 of the Fish and Game Code is amended to read:

8372. Kelp bass, sand bass, or spotted bass, all of the genus Paralabrax, shall not be sold or purchased, or possessed in any place where fish are purchased, possessed for sale, or sold, or where food is offered or processed for sale, or in any truck, vessel, or other conveyance operated by or for a place so selling or possessing fish; except that those fish may be imported into this state pursuant to Article 1 (commencing with Section 2345) of Chapter 4 of Division 3, and may be sold under regulations as the commission may adopt. It is unlawful to take, possess, or sell any fish less than 10½ inches in length of the species specified in this section.

SEC. 122. Section 8383 of the Fish and Game Code is repealed.

SEC. 123. Section 8573 of the Fish and Game Code is amended to read:

8573. Drift gill nets may be used to take shark and swordfish under the permit provided in this article, subject to Section 8610.3 and all of the following restrictions:

(a) From June 1 to November 15, inclusive, shark or swordfish gill nets shall not be in the water from two hours after sunrise to two hours before sunset east of a line described as follows:

From a point beginning at Las Pitas Point to San Pedro Point on Santa Cruz Island, thence to Gull Island Light, thence to the northeast extremity of San Nicolas Island, thence along the high water mark on the west side of San Nicolas Island to the southeast extremity of San Nicolas Island, thence to the northwest extremity of San Clemente Island, thence along the high water mark on the west side of San Clemente Island to the southeast extremity of San Clemente Island, thence along a line running 150° true from the southeast extremity of San Clemente Island to the westerly extension of the boundary line between the Republic of Mexico and San Diego County.

(b) (1) The total maximum length of a shark or swordfish gill net on the net reel on a vessel, on the deck of the vessel, and in the water at any time shall not exceed 6,000 feet in float line length. The float line length

shall be determined by measuring the float line, as tied, of all the net panels, combined with any other netted lines. The existence of holes, tears, or gaps in the net shall have no bearing on the measurement of the float line. The float line of any net panels with holes, tears, or gaps shall be included in the total float line measurement.

(2) Any shark or swordfish gill net on the reel shall have the float lines of the adjacent panels tied together, the lead lines of the adjacent panels tied together, and the web of the adjacent panels laced together. No quick disconnect device may be used unless the total maximum length of all shark and swordfish gill nets, including all spare gill nets or net panels on the vessel and all gill nets or net panels on the net reels on the vessel, on the deck of the vessel, stored aboard the vessel, and in the water, does not exceed 6,000 feet in float line length as determined under paragraph (1).

(3) Spare shark or swordfish gill net aboard the vessel shall not exceed 250 fathoms (1,500 feet) in total length, and the spare net shall be in separated panels not to exceed 100 fathoms (600 feet) in float line length for each panel, with the float lines and leadlines attached to each panel separately gathered and tied, and the spare net panels stowed in lockers, wells, or other storage space.

(4) If a torn panel is replaced in a working shark or swordfish gill net, the torn panel shall be removed from the working net before the replacement panel is attached to the working net.

(c) Any end of a shark or swordfish gill net not attached to the permittee's vessel shall be marked by a pole with a radar reflector. The reflector shall be at least six feet above the surface of the ocean and not less than 10 inches in any dimension except thickness. The permittee's permit number shall be permanently affixed to at least one buoy or float that is attached to the radar reflector staff. The permit number shall be at least one and one-half inches in height and all markings shall be at least one-quarter inch in width.

(d) For the purposes of this article, "shark or swordfish gill net" means a drift gill net of 14-inch or greater mesh size.

SEC. 124. Section 8576 of the Fish and Game Code is amended to read:

8576. (a) Drift gill nets shall not be used to take shark or swordfish from February 1 to April 30, inclusive.

(b) Drift gill nets shall not be used to take shark or swordfish in ocean waters within 75 nautical miles from the mainland coastline between the westerly extension of the California-Oregon boundary line and the westerly extension of the United States-Republic of Mexico boundary line from May 1 to August 14, inclusive.

(c) Subdivisions (a) and (b) apply to any drift gill net used pursuant to a permit issued under Section 8561 or 8681, except that drift gill nets with a mesh size smaller than eight inches in stretched mesh and twine size number 18, or the equivalent of this twine size, or smaller, used pursuant to a permit issued under Section 8681, may be used to take species of sharks other than thresher shark, shortfin mako shark, and white shark during the periods specified in subdivisions (a) and (b). However, during the periods of time specified in subdivisions (a) and (b), not more than two thresher sharks and two shortfin mako sharks may be possessed and sold if taken incidentally in drift gill nets while fishing for barracuda or white seabass and if at least 10 barracuda or five white seabass are possessed and landed at the same time as the incidentally taken thresher or shortfin mako shark. No thresher shark or shortfin mako shark taken pursuant to this subdivision shall be transferred to another vessel before landing the fish. Any vessel possessing thresher or shortfin mako sharks pursuant to this section shall not have any gill or trammel net aboard that is constructed with a mesh size greater than eight inches in stretched mesh and twine size greater than number 18, or the equivalent of a twine size greater than number 18.

(d) Notwithstanding the closure from May 1 to August 14, inclusive, provided by subdivision (b), a permittee may land swordfish or thresher shark taken in ocean waters more than 75 nautical miles from the mainland coastline in that period if, for each landing during that closed period, the permittee signs a written declaration under penalty of perjury that the fish landed were taken more than 75 nautical miles from the mainland coastline. The declaration shall be completed and signed before arrival at any port in this state. Within 72 hours of the time of arrival, the permittee shall deliver the declaration to the department.

(e) If any person is convicted of falsely swearing a declaration under subdivision (d), in addition to any other penalty prescribed by law, the following penalties shall be imposed:

(1) The fish landed shall be forfeited, or, if sold, the proceeds from the sale shall be forfeited, pursuant to Sections 12159, 12160, 12161, and 12162.

(2) All shark or swordfish gill nets possessed by the permittee shall be seized and forfeited pursuant to Section 8630 or 12157.

(f) From August 15 of the year of issue to January 31, inclusive, of the following year, swordfish may be taken under a permit issued pursuant to this article.

SEC. 125. Section 8597 of the Fish and Game Code is amended to read:

8597. (a) It is unlawful for any person to take, possess aboard a boat, or land for marine aquaria pet trade purposes any live organisms

identified in subdivision (b), unless that person has a valid marine aquaria collector's permit that has not been suspended or revoked. At least one person aboard the boat shall have a valid marine aquaria collector permit.

(b) Except as provided in Section 8598.2, and unless otherwise prohibited in this code, or regulations made pursuant thereto, specimens of the following groups or species may be taken, possessed aboard a boat, or landed under a marine aquaria collector's permit:

(1) Marine plants:

(A) Chlorophyta.

(B) Phaeophyta.

(C) Rhodophyta.

(D) Spermatophyta, all species.

(2) Invertebrates:

(A) Polychaeta—worms; all species.

(B) Crustacea—shrimp, crabs; all species, except the following:

(i) Dungeness crab—Cancer magister.

(ii) Yellow crab—Cancer anthonyi.

(iii) Red crab—Cancer productus.

(iv) Sheep crab—Loxorhynchus grandis.

(v) Spot prawn—Pandalus platyceros.

(vi) Ridgeback prawn—Sicyonia ingentis.

(vii) Golden prawn—Penaeus californiensis.

(viii) Sand crab—Emerita analoga.

(ix) Redrock shrimp—Lysmata californica.

(x) Bay shrimp—Crangon sp. and Palaemon macrodactylus.

(xi) Ghost shrimp—Callianassa sp.

(C) Asteroidea—Sea stars; all species.

(D) Ophiuroidea—Brittle stars; all species.

(E) Gastropoda—snails, limpets, sea slugs; all species, except Kellet's whelk—Kelletia kelleti.

(F) Bivalvia—clams and mussels; all species.

(G) Polyplacophora—Chitons; all species.

(H) Cephalopoda—Octopuses and squids; all species, except two spot octopuses—Octopus bimaculatus and Octopus maculoides—and market squid—Loligo opalescens.

(I) Tunicata—Sea squirts; all species.

(3) Vertebrates:

(A) Osteichthyes—Finfishes; all species, except the following:

(i) Rockfish—Sebastes sp. larger than six inches total length.

(ii) Sheephead—Semicossyphus pulcher larger than six inches total length.

(iii) Anchovy—Engraulis mordax.

(iv) Sardine—Sardinops sagax.

(v) Pacific/chub mackerel—Scomber japonicus.
(vi) Jack mackerel—Trachurus symmetricus.
(vii) Queenfish—Seriphus politus.
(viii) White Croaker—Genyonemus lineatus.
(ix) Top smelt—Atherinops affinis.
(x) Grunion—Leuresthes tenuis.
(xi) Shiner surf perch—Cymatogaster aggregata.
(xii) Longjawed mudsucker—Gillichthys mirabilis.

(B) Chondrichthyes—sharks, rays, and skates; all species less than 18 inches total length, except that leopard shark (Triakis semifasciata) shall be 36 inches or larger in total length.

(c) The holder of a permit issued pursuant to this section is not required to obtain or possess a kelp harvester's license issued pursuant to Section 6651, a tidal invertebrate permit issued pursuant to Section 8500, or a general trap permit issued pursuant to Article 1 (commencing with Section 9000) of Chapter 4, when taking, possessing, or landing live organisms for marine aquaria pet trade purposes pursuant to subdivision (b), subject to regulations governing the taking of tidal invertebrates. The commission shall adopt regulations to implement this subdivision, and, for that purpose, may incorporate other regulations by reference.

SEC. 126. Section 8598 of the Fish and Game Code is amended to read:

8598. (a) Notwithstanding Section 8140 or subdivision (b) of Section 8597, specimens of the following groups or species shall not be taken, possessed aboard a boat, or landed for commercial purposes. Taking, possessing, or landing of any of the following species in a commercial operation is prima facie evidence that it was taken, possessed, or landed for commercial purposes:

(1) Invertebrates:
(A) Phylum Porifera—all sponges.
(B) Genus Pelagia sp.—jellyfish.
(C) Coelenterata—corals, anemones; all species.
(D) Order Gorgonacea—all gorgonians.
(E) Order Pennatulacea—all species, except Renilla kollikeri.
(F) Feather-duster worm—Eudistylia polymorpha.
(G) Fiddler crab—Uca crenulata.
(H) Umbrella crab—Cryptolithodes sitchensis.
(I) Stalked or goose barnacles—Pollicipes sp.
(J) Giant acorn barnacle—Balanus nubilus or B. aguila.
(K) Owl limpet—Lottia gigantea.
(L) Coffee bean shells—Trivia sp.
(M) Three-winged murex—Pteropurpura trialata.

(N) Vidler's simnia—Simnia vidleri.

(O) Queen tegula—Tegula regina.

(P) Opisthobranchia (including nudibranchs)—all subclass Opisthobranchia species except:

(i) Sea hares—Aplysia californica and Aplysia vaccaria.

(ii) Hermissenda crassicornis.

(iii) Lion's mouth—Melibe leonina.

(iv) Aeolidia papillosa.

(v) Spanish shawl—Flabellina iodinea.

(2) Vertebrates:

(A) All shark and ray eggcases.

(B) Brown smoothhound sharks—Mustelus hinlei—that are less than 18 inches in a whole condition or dressed with head and tail removed.

(C) Family Agonidae—all poachers.

(D) Wolf-eel—Anarrhichthys ocellatus.

(E) Juvenile sheephead—Semicossyphus pulcher (under six inches).

(F) Garibaldi—Hypsypops rubicundus.

(3) Live rocks.

(A) Rocks with living organisms attached, commonly called "live rocks," shall not be taken or possessed except as provided in subparagraph (C).

(B) Rocks shall not be broken to take marine aquaria species, and any rock displaced to access any of those species shall be returned to its original position.

(C) Rocks cultured under the authority of an aquaculture registration may be possessed.

(b) No organisms may be taken, possessed, or landed for marine aquaria pet trade purposes under the terms of a marine aquaria collector's permit in any of the following areas:

(1) On the north side of Santa Catalina Island from a line extending three nautical miles 90 degrees true from Church Rock to a line extending three nautical miles 270 degrees true from the extreme west end of the island.

(2) On the south or "back" side of Santa Catalina Island from a line extending three nautical miles 90 degrees true from Church Rock to a line extending three nautical miles 270 degrees true from the extreme west end of the island.

(3) Marine life refuges, marine reserves, ecological reserves, and state reserves.

SEC. 127. Section 8632 of the Fish and Game Code is amended to read:

8632. Within three days after the department has been notified in writing that a vessel carrying a seized net has arrived in port, the

department may remove the net from the vessel, unless the owner has furnished a bond in accordance with Section 8633. The notice shall be sufficient when delivered to the office of the department nearest to the port at which the vessel has arrived.

SEC. 128. Section 8681 of the Fish and Game Code is amended to read:

8681. (a) Gill nets or trammel nets shall not be used for commercial purposes except under a revocable, nontransferable permit issued by the department. Each permittee shall keep an accurate record of his or her fishing operations in a logbook furnished by the department. The commission may suspend, revoke, or cancel a permit, license, and commercial fishing privileges pursuant to Section 7857. A permit may be revoked and canceled for a period not to exceed one year from the date of revocation.

(b) In accordance with Section 4 of Article X B of the California Constitution, this section contains the provisions in effect on January 1, 1989.

SEC. 129. Section 10500 of the Fish and Game Code is amended to read:

10500. Except under a permit or specific authorization, it is unlawful to do any of the following:

(a) To take or possess any bird or mammal, or part thereof, in any game refuge.

(b) To use or have in possession in a game refuge, any firearm, BB device as defined in subdivision (g) of Section 12001 of the Penal Code, crossbow, bow and arrow, or any trap or other contrivance designed to be, or capable of being, used to take birds or mammals, or to discharge any firearm or BB device or to release any arrow or crossbow bolt into any game refuge.

(c) To take or possess any species of fish or amphibian, or part thereof, in any fish refuge, or to use or have in possession in that refuge any contrivance designed to be used for catching fish.

(d) To take or possess any bird in, or to discharge any firearm or BB device, or to release any arrow or crossbow bolt within or into, any waterfowl refuge.

(e) To take or possess any quail in a quail refuge.

(f) To take or possess any invertebrate or specimen of marine plant life in a marine life refuge.

(g) To take or possess any clam in a clam refuge or to possess in such a refuge any instrument or apparatus capable of being used to dig clams.

SEC. 130. Section 10506 of the Fish and Game Code is amended to read:

10506. Nothing in this code prohibits the possession of firearms, BB devices as defined in subdivision (g) of Section 12001 of the Penal Code, crossbows and bolts, or bows and arrows by persons when traveling through any game refuges when the firearms are taken apart or encased and unloaded and the bows are unstrung or stored separately from any arrow or bolt. When the traveling is done on a route other than a public highway or other public thoroughfare or right of way, notice shall be given to the department at least 24 hours before that traveling. The notice shall give the name and address of the person intending to travel through the refuge, the name of the refuge, the approximate route, and the approximate time when that person intends to travel through the refuge.

SEC. 131. Section 11032 of the Fish and Game Code is amended to read:

11032. The following constitutes Fish and Game District 21:

The waters and tidelands to high water mark of San Diego Bay lying inside of a straight line drawn from the southernly extremity of Point Loma to the offshore end of the San Diego breakwater.

SEC. 132. Section 12000 of the Fish and Game Code is amended to read:

12000. (a) Except as expressly provided otherwise in this code, any violation of this code, or of any rule, regulation, or order made or adopted under this code, is a misdemeanor.

(b) Notwithstanding subdivision (a), any person who violates any of the following statutes or regulations is guilty of an infraction punishable by a fine of not less than one hundred dollars ($100), or more than one thousand dollars ($1,000), or of a misdemeanor:

(1) Subdivision (a) of Section 6596.

(2) Section 7149.8.

(3) Section 7360.

(4) Sections 1.14, 1.17, 1.18, 1.62, 1.63, and 1.74 of Title 14 of the California Code of Regulations.

(5) Sections 2.00 to 5.95, inclusive, and 7.00 to 8.00, inclusive, of Title 14 of the California Code of Regulations.

(6) Sections 27.56 to 30.10, inclusive, of Title 14 of the California Code of Regulations.

(7) Sections 40 to 43, inclusive, of Title 14 of the California Code of Regulations.

(8) Sections 307, 308, and 311 to 313, inclusive, of Title 14 of the California Code of Regulations.

(9) Sections 505, 507 to 510, inclusive, and 550 to 553, inclusive, of Title 14 of the California Code of Regulations.

(10) Sections 630 to 630.5, inclusive, of Title 14 of the California Code of Regulations.

SEC. 133. Section 12001.5 of the Fish and Game Code is amended to read:

12001.5. (a) In addition to any other penalty or fine imposed pursuant to this code, if a person has been convicted of one or more offenses that was a violation of a section listed in subdivision (b) separate from the offense before the court, the court may order as a condition of probation upon conviction of the offense before the court that is also a violation of a section listed in subdivision (b), that the person attend the hunter education course designated in Section 3051 and perform community service, preferably relating to natural resources if that type of community service is available, as follows:

(1) If the person has one separate conviction, not more than 200 hours of community service.

(2) If the person has two or more separate convictions, not more than 300 hours of community service.

(b) This section applies to violations relating to a taking in Sections 3007, 3700, 4330, and 4750, and a sale or purchase of parts of a bear in Section 4758.

SEC. 134. Section 12002 of the Fish and Game Code is amended to read:

12002. (a) Unless otherwise provided, the punishment for a violation of this code that is a misdemeanor is a fine of not more than one thousand dollars ($1,000), imprisonment in the county jail for not more than six months, or by both that fine and imprisonment.

(b) The punishment for a violation of any of the following provisions is a fine of not more than two thousand dollars ($2,000), imprisonment in the county jail for not more than one year, or both the fine and imprisonment:

(1) Section 1059.

(2) Subdivision (d) of Section 4004.

(3) Section 4600.

(4) Paragraph (1) or (2) of subdivision (a) of Section 5650.

(5) A first violation of Section 8670.

(6) Section 10500.

(7) Unless a greater punishment is otherwise provided, a violation subject to subdivision (a) of Section 12003.1.

(c) Except as specified in Sections 12001 and 12010, the punishment for violation of Section 3503, 3503.5, 3513, or 3800 is a fine of not more than five thousand dollars ($5,000), imprisonment in the county jail for not more than six months, or by both that fine and imprisonment.

(d) (1) A license, tag, stamp, reservation, permit, or other entitlement or privilege issued pursuant to this code to a defendant who fails to appear at a court hearing for a violation of this code, or who fails to pay

a fine imposed pursuant to this code, shall be immediately suspended or revoked. The license, tag, stamp, reservation, permit, or other entitlement or privilege shall not be reinstated or renewed, and no other license, tag, stamp, reservation, permit, or other entitlement or privilege shall be issued to that person pursuant to this code, until the court proceeding is completed or the fine is paid.

(2) This subdivision does not apply to any violation of Section 1052, 1059, 1170, 5650, 5653.9, 6454, 6650, or 6653.5.

SEC. 135. Section 12002.1 of the Fish and Game Code is amended to read:

12002.1. (a) Notwithstanding Section 12002, the punishment for taking a mammal or bird for which a hunting license issued pursuant to Section 3031 is required or a tag, seal, or stamp is required, including a deer tag issued pursuant to Section 3407, without having in one's possession the required, valid license, or without having in one's possession any required tag, seal, or stamp, or when the taking of that mammal or bird is prohibited by allowable season, limit, time, or area, is punishable by a fine of not less than two hundred fifty dollars ($250) or more than two thousand dollars ($2,000), or imprisonment in the county jail for not more than one year, or by both that fine and imprisonment, or by any greater punishment prescribed by this code.

(b) If a person is convicted of an offense described in subdivision (a) and produces in court a license, tag, or stamp, issued to the person and valid at the time of the person's arrest and if the taking was otherwise lawful with respect to season, limit, time, and area, the court may reduce the fine imposed for the violation to fifty dollars ($50).

SEC. 136. Section 12002.11 is added to the Fish and Game Code, to read:

12002.11. Upon the second conviction of any person of a violation of Section 3087 or any regulation adopted pursuant thereto, in any five-year period, and upon any conviction subsequent to the two convictions during a five-year period, it shall be unlawful for that person to conduct any of the activities described in paragraph (1) of subdivision (a) of Section 3087 for three years from the date of the last conviction.

SEC. 137. Section 12002.2.1 is added to the Fish and Game Code, to read:

12002.2.1. (a) Notwithstanding any other provision of law, a violation of any of the following is an infraction, punishable by a fine of not less than fifty dollars ($50), or more than two hundred fifty dollars ($250), for a first offense:

(1) Subdivision (a) of Section 6596.

(2) Subdivision (a) of Section 6596.1.

(3) Subdivision (a) of Section 7149.4.

(4) Subdivision (a) of Section 7149.45.
(5) Subdivision (b) of Section 7180.
(6) Subdivision (b) of Section 7180.1.
(7) Subdivision (a) of Section 7360.
(8) Section 1.18 of Title 14 of the California Code of Regulations.

(b) If a person is convicted of a violation of any of the sections listed in subdivision (a) within five years of a separate offense resulting in a conviction of a violation of any of those sections, that person shall be punished by a fine of not less than one hundred dollars ($100) or more than five hundred dollars ($500).

(c) If a person convicted of a violation of any of the sections listed in subdivision (a) produces in court the applicable sport fishing ocean enhancement stamp, sport fishing ocean enhancement validation, second rod sport fishing stamp, second rod sport fishing validation, Colorado River special use stamp, Colorado River special use validation, Bay-Delta Sport Fishing Enhancement Stamp or Bay-Delta Sport Fishing Enhancement validation issued pursuant to this code and valid at the time of the person's arrest, and if the taking was otherwise lawful with respect to season, limit, time, and area, the court may reduce the fine imposed for the violation to twenty-five dollars ($25).

SEC. 138. Section 12013 of the Fish and Game Code is amended to read:

12013. (a) In addition to any other penalty prescribed by law, any person convicted of a violation punishable under subdivision (a) of Section 12012 relating to wildlife, except fish, is prohibited from thereafter taking wildlife, except fish, in this state for a period of not less than one year from the date of conviction. In determining the length of the prohibition imposed pursuant to this subdivision, the court shall take into consideration the gravity of the offense for which the person was convicted, including, but not limited to, whether the species was illegally taken for commercial purposes, the magnitude of the offense, damage to the species as a resource in the geographic area where taken, previous convictions for violations of this code, and the motivation of the person convicted. Any license, permit, tag, stamp, or other entitlement to take or possess wildlife, except fish, for any purpose other than for commercial purposes that has previously been issued to that person shall be immediately revoked by the court and that person, during the period of the prohibition, shall not apply for a license, permit, tag, stamp, or other entitlement to take or possess wildlife, except fish, for any purpose other than for commercial purposes.

(b) In addition to any other penalty prescribed by law, any person convicted of a violation punishable under subdivision (a) of Section 12012 relating to fish is prohibited from thereafter taking or possessing

fish in this state for a period of not less than one year from the date of conviction. In determining the length of the prohibition imposed pursuant to this subdivision, the court shall take into consideration the gravity of the offense for which the person was convicted, including, but not limited to, such factors as whether the species was illegally taken for commercial purposes, the magnitude of the offense, damage to the species as a resource in the geographic area where taken, previous convictions for violations of this code, and the motivation of the person convicted. Any license, permit, tag, stamp, or other entitlement to take or possess fish for any purpose other than for commercial purposes that has previously been issued to that person shall be immediately revoked and that person, during the period of the prohibition, shall not apply for a license, permit, tag, stamp, or other entitlement to take or possess fish for any purpose other than for commercial purposes.

(c) As used in this section, "commercial purposes" means for profit or personal gain, "fish" means fish as defined by Section 45, and "wildlife" means wildlife as defined by Section 711.2.

(d) This section does not apply to any person who is licensed to take any fish or wildlife for commercial purposes and does not supersede or otherwise affect any other provision of this code or regulations adopted pursuant to this code relating to issuing, suspending, or revoking licenses or other entitlements to take, possess, buy, or sell wildlife or fish for commercial purposes.

SEC. 139. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CHAPTER 286

An act to amend Sections 4000, 9290, and 9295 of the Elections Code, relating to elections.

[Approved by Governor October 5, 2007. Filed with Secretary of State October 5, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 4000 of the Elections Code is amended to read:

4000. A local, special, or consolidated election may be conducted wholly by mail provided that all of the following conditions apply:

(a) The governing body of the local agency authorizes the use of mailed ballots for the election.

(b) The election is held on an established mailed ballot election date pursuant to Section 1500.

(c) The election is one of the following:

(1) An election in which no more than 1,000 registered voters are eligible to participate.

(2) An election on a measure or measures restricted to (A) the imposition of special taxes, or (B) expenditure limitation overrides, or (C) both (A) and (B), in a city, county, or special district with 5,000 or less registered voters calculated as of the time of the last report of registration by the county elections official to the Secretary of State.

(3) An election on the issuance of a general obligation water bond in accordance with Section 12944.5 of the Water Code.

(4) An election of the Directors of the Monterey Peninsula Water Management District as authorized in Section 122 of Chapter 527 of the Statutes of 1977, known as the Monterey Peninsula Water Management District Law.

(5) An election of the Aliso Water Management Agency, or its affected member agencies, pursuant to Sections 13416 and 13417 of the Water Code.

(6) An election of the San Jacinto Mountain Area Water Study Agency pursuant to Sections 13416 and 13417 of the Water Code.

(7) An election of the San Lorenzo Valley Water District pursuant to Sections 13416 and 13417 of the Water Code.

(8) An election or assessment ballot proceeding required or authorized by Article XIII C or XIII D of the California Constitution. However, when an assessment ballot proceeding is conducted by mail pursuant to this section, the following rules apply:

(A) The proceeding shall be denominated an "assessment ballot proceeding" rather than an election.

(B) Ballots shall be denominated "assessment ballots."

SEC. 2. Section 9290 of the Elections Code is amended to read:

9290. Whenever the elections official is required to mail official matter, as provided in Sections 9223, 9280, 9281, 9282, and 9285, only one copy of each piece of official matter shall be mailed to a postal address where two or more registered voters have the same surname and the same postal address.

This section shall only apply if the legislative body of the city adopts this section and the election official conducting the election approves of the procedure.

SEC. 3. Section 9295 of the Elections Code is amended to read:

9295. (a) The elections official shall make a copy of the material referred to in Sections 9223, 9280, 9281, 9282, and 9285 available for public examination in the elections official's office for a period of 10 calendar days immediately following the filing deadline for submission of those materials. Any person may obtain a copy of the materials from the elections official for use outside of the elections official's office. The elections official may charge a fee to any person obtaining a copy of the material. The fee may not exceed the actual cost incurred by the elections official in providing the copy.

(b) (1) During the 10-calendar-day public examination period provided by this section, any voter of the jurisdiction in which the election is being held, or the elections official, himself or herself, may seek a writ of mandate or an injunction requiring any or all of the materials to be amended or deleted. The writ of mandate or injunction request shall be filed no later than the end of the 10-calendar-day public examination period.

(2) A peremptory writ of mandate or an injunction shall be issued only upon clear and convincing proof that the material in question is false, misleading, or inconsistent with the requirements of this chapter, and that issuance of the writ or injunction will not substantially interfere with the printing or distribution of official election materials as provided by law.

(3) The elections official shall be named as respondent, and the person or official who authored the material in question shall be named as real parties in interest. In the case of the elections official bringing the mandamus or injunctive action, the board of supervisors of the county shall be named as the respondent and the person or official who authored the material in question shall be named as the real party in interest.

CHAPTER 287

An act to amend Sections 21670.3, 132360.2, 170006, 170026, 170032, and 170048 of, to add Sections 170010, 170011, 170012, 170013, 170014, and 170017 to, to add Article 6.3 (commencing with Section 132357) to Chapter 3 of Division 12.7 of, to repeal Sections 170020, 170022, 170028, 170041, 170042, and 170046 of, and to repeal and add Sections 170004, 170016, 170018, and 170024 of, the Public Utilities Code, relating to the San Diego County Regional Airport Authority.

[Approved by Governor October 5, 2007. Filed with
Secretary of State October 5, 2007.]

The people of the State of California do enact as follows:

SECTION 1. (a) This act shall be known and may be cited as the San Diego County Regional Airport Authority Reform Act of 2007.

(b) In enacting this act, it is the intent of the Legislature to restructure the San Diego County Regional Airport Authority established by the San Diego County Regional Airport Authority Act (Division 17 (commencing with Section 170000) of the Public Utilities Code) to accomplish all of the following goals:

(1) Improve the San Diego County Regional Airport Authority's governance structure, including the membership, responsiveness, and compensation of the governing board.

(2) Enhance the San Diego County Regional Airport Authority's fiscal accountability by adding three public members to the authority Audit Committee as voting members.

(3) Promote long-range planning for airports in local general plans and regional transportation strategies.

(4) Strengthen the San Diego County Regional Airport Authority's ability to operate the San Diego International Airport.

(5) Ensure consistency between the planning documents prepared or approved by the San Diego County Regional Airport Authority and the San Diego Association of Governments.

(c) The Legislature further intends that the San Diego County Regional Airport Authority will review and, if warranted, update the airport land use compatibility plans no less often than every five years.

SEC. 2. Section 21670.3 of the Public Utilities Code is amended to read:

21670.3. (a) Sections 21670 and 21670.1 do not apply to the County of San Diego. In that county, the San Diego County Regional Airport Authority, as established pursuant to Section 170002, shall be responsible for the preparation, adoption, and amendment of an airport land use compatibility plan for each airport in San Diego County.

(b) The San Diego County Regional Airport Authority shall engage in a public collaborative planning process when preparing and updating an airport land use compatibility plan.

SEC. 3. Article 6.3 (commencing with Section 132357) is added to Chapter 3 of Division 12.7 of the Public Utilities Code, to read:

Article 6.3. Adoption and Revision of a Regional Aviation Strategic Plan and Airport Multimodal Accessibility Plan

132357. On or before June 30, 2008, the San Diego County Regional Airport Authority and the consolidated agency shall enter into an agreement for the coordination of responsibilities for the adoption of, and updates to, the regional aviation strategic plan and the airport multimodal accessibility plan for San Diego County pursuant to this article. The agreement shall include provisions for coordination and timing of the preparation and maintenance of the plans. The agreement shall also provide for coordination of efforts to obtain funding from outside sources and equitable allocation of funding responsibilities for the airport multimodal accessibility plan.

132358. (a) The San Diego County Regional Airport Authority shall prepare a regional aviation strategic plan with the objective of identifying workable strategies to improve the performance of the San Diego County regional airport system.

(b) The San Diego County Regional Airport Authority shall seek review and comment from the consolidated agency regarding the scope and content of the regional aviation strategic plan and any updates to the plan.

(c) The elements of the regional aviation strategic plan shall include the following:

(1) A forecast of air passenger and air cargo demand in San Diego County.

(2) Identification of the existing capacity of the airports in the county for commercial and general aviation.

(3) Identification of the strategies and facilities required to accommodate additional demand both as it relates to the air transportation system and the ground access system.

(4) A financial strategy that estimates, over the life of the plan, the amount of funding that can be expected and the likely sources for the funding. The financial strategy shall include a program of investments supported by the expected revenues and estimated schedule of their implementation.

(5) Other elements that further the development of the regional aviation strategic plan.

(d) The regional aviation strategic plan shall incorporate the master plans and airport land use compatibility plans for the airports in San Diego County.

(e) During the preparation of the regional aviation strategic plan, the San Diego County Regional Airport Authority shall take into

consideration the interregional aviation plans from the regions bordering San Diego County.

(f) During the preparation of the regional aviation strategic plan, the San Diego County Regional Airport Authority shall consult with all of the following:

(1) Civilian and military airport operators in San Diego County.

(2) Appropriate state and federal agencies.

(3) Airport operators in regions adjacent to San Diego County.

(4) The cities in San Diego County.

(5) San Diego County.

(6) The consolidated agency.

(7) The public pursuant to subdivision (g).

(g) The San Diego County Regional Airport Authority, in consultation with the consolidated agency, shall undertake and complete a public participation process to aid in the preparation of the regional aviation strategic plan. The public participation process shall employ a procedure that includes a method of addressing and responding to recommendations made by the public.

(h) A draft of the regional aviation strategic plan and its recommendations shall be circulated for review and comment to the consolidated agency, to the civilian and military airport operators in the county, to cities within San Diego County in which an airport is located, and to San Diego County.

(i) The first regional aviation strategic plan shall be adopted by June 30, 2011.

(j) Upon adoption of the regional aviation strategic plan, the San Diego County Regional Airport Authority shall submit the plan to the consolidated agency.

132359. (a) The consolidated agency shall prepare and adopt a multimodal surface transportation accessibility plan for airports in San Diego County (airport multimodal accessibility plan) by December 31, 2013. The airport multimodal accessibility plan should be updated as necessary for the consolidated agency to comply with Section 132360.2.

(b) The airport multimodal accessibility plan shall be prepared in consultation with the San Diego County Regional Airport Authority, San Diego County, the cities within San Diego County, the transit operators within San Diego County, the Department of Transportation, the civilian and military airport operators within San Diego County, and airport operators in regions adjacent to San Diego County.

(c) The consolidated agency, in consultation with the San Diego County Regional Airport Authority, shall undertake and complete a public participation process to aid in the preparation of the airport multimodal accessibility plan. The public participation process shall

employ a procedure that includes a method of addressing and responding to recommendations made by the public.

(d) The elements of the airport multimodal accessibility plan shall include the following:

(1) The identification of multimodal transportation investments that will improve surface transportation access to the airports in San Diego County and to other counties, if appropriate. The investments may include improvements that increase capacity through the construction of new facilities, or modification to existing facilities, and investments in operational improvements that enhance the carrying capacity of existing facilities.

(2) A program of investments and the anticipated schedule for the development of the projects that comprise the program.

(3) A financial element that estimates for the period of the plan the amount of funding that can be expected, the likely revenue sources from which the funding will be derived, and the program of investments supported by the expected revenue. The financial element shall also contain recommendations for allocation of funds. The financial element may recommend the development of specified new sources of revenue, consistent with the policy element and action.

(4) Other elements that further the development of the airport multimodal accessibility plan.

(e) In preparing the airport multimodal accessibility plan, the consolidated agency shall consider the following:

(1) The regional aviation strategic plan prepared by the San Diego County Regional Airport Authority.

(2) The airport master plans of the civilian and military airport operators in the county.

(3) The general plans and their circulation element of the cities within San Diego County and San Diego County.

(4) The transit plans of the transit operators in San Diego County.

(5) The highway system improvement plans and programs of the Department of Transportation.

(6) The intercity passenger rail plans of the California High-Speed Rail Authority.

(7) The interregional aviation and rail plans from the regions bordering San Diego County.

(8) Other pertinent plans.

(f) Not less than six months prior to the adoption of the airport multimodal accessibility plan, the consolidated agency shall circulate for review and comment the draft plan and its proposed recommendations to the San Diego County Regional Airport Authority, the operators of the remaining civilian and military airports in San Diego County, the

cities within San Diego County in which an airport is located, San Diego County, the Department of Transportation, representatives of the tenants of the airports, and other interested parties.

(g) Following adoption of the first airport multimodal accessibility plan, the San Diego County Regional Airport Authority shall submit updated airport land use compatibility plans to the consolidated agency for review prior to adoption of the revised airport land use compatibility plan by the San Diego County Regional Airport Authority. The board of directors of the consolidated agency shall review proposed airport land use compatibility plans and updates to the plans submitted by the San Diego County Regional Airport Authority and make a determination as to their compatibility with the airport multimodal accessibility plan. In the event the consolidated agency finds that the plans are incompatible with the airport multimodal accessibility plan, the consolidated agency shall return the plan to the San Diego County Regional Airport Authority with its findings. The San Diego County Regional Airport Authority shall make any necessary modifications to achieve compatibility and resubmit the plan to the consolidated agency for another compatibility review.

(h) The regional aviation strategic plan shall be reviewed not less than every five years and shall be updated, as necessary, to comply with Section 132360.2.

(i) The airport multimodal accessibility plan shall not limit the authority granted to the San Diego County Regional Airport Authority in subdivision (a) of Section 170048.

SEC. 4. Section 132360.2 of the Public Utilities Code is amended to read:

132360.2. The regional transportation plan, the regional aviation strategic plan, the airport multimodal accessibility plan, and the regional comprehensive plan should be compatible. The regional comprehensive plan should set the framework for the type of changes upon which subsequent regional transportation plans, regional aviation strategic plans, and airport multimodal accessibility plans should focus.

SEC. 5. Section 170004 of the Public Utilities Code is repealed.

SEC. 6. Section 170004 is added to the Public Utilities Code, to read:

170004. The Legislature finds and declares all of the following:

(a) Airports help to link local, regional, statewide, national, and global economic activities. Airports are also essential features of comprehensive transportation systems, that include streets and highways, rail transit, transit over water, and mass transit.

(b) It is essential to the public health, safety, and welfare that public officials and the private sector plan, develop, and operate the airports in

the San Diego County region so that those airports promote economic development, protect environmental quality, and enhance social equity.

(c) The significant regional consequences of airport planning, development, and operations require the creation of a regional airport authority.

SEC. 7. Section 170006 of the Public Utilities Code is amended to read:

170006. For the purposes of this division, the following terms have the following meanings, unless the context requires otherwise.

(a) The "authority" means the San Diego County Regional Airport Authority established under this division.

(b) The "board" and "board of directors" means the governing board of the authority established as specified in Chapter 2 (commencing with Section 170010).

(c) The "city selection committee" means the committee created pursuant to Article 11 (commencing with Section 50270) of Chapter 1 of Part 1 of Division 1 of Title 5 of the Government Code.

(d) The "consolidated agency" means the authority resulting from the consolidation of the San Diego Association of Governments and the transit boards pursuant to Chapter 3 (commencing with Section 132350) of Division 12.7.

(e) The "east county cities" means the Cities of El Cajon, La Mesa, Lemon Grove, and Santee.

(f) The "north county coastal cities" means the Cities of Carlsbad, Del Mar, Encinitas, Oceanside, and Solana Beach.

(g) The "north county inland cities" means the Cities of Escondido, Poway, San Marcos, and Vista.

(h) The "port" means the San Diego Unified Port District established under the San Diego Unified Port District Act (Chapter 67 of the Statutes of 1962, First Extraordinary Session).

(i) The "San Diego International Airport" means the airport located at Lindbergh Field in the County of San Diego.

(j) The "south county cities" means the Cities of Chula Vista, Coronado, Imperial Beach, and National City.

SEC. 8. Section 170010 is added to Chapter 2 of Division 17 of the Public Utilities Code, to read:

170010. (a) The board of directors shall consist of nine members, appointed as follows:

(1) The Mayor of the City of San Diego shall appoint three persons, two of whom shall be subject to confirmation by the City Council of the City of San Diego. The persons appointed pursuant to this paragraph shall be residents of the City of San Diego and not less than one shall be an elected official of the City of San Diego. For purposes of this

subdivision, an "elected official of the City of San Diego" means the Mayor and members of the City Council of the City of San Diego.

(2) The Chair of the Board of Supervisors of the County of San Diego shall appoint two persons, subject to confirmation by the Board of Supervisors of the County of San Diego. The persons appointed pursuant to this paragraph shall be residents of the County of San Diego and not less than one shall be a member of the Board of Supervisors of the County of San Diego.

(3) At a meeting of the city selection committee, the mayors of the east county cities shall appoint one person. The person appointed pursuant to this paragraph shall be a member of a city council or a resident of the east county cities.

(4) At a meeting of the city selection committee, the mayors of the north county coastal cities shall appoint one person. The person appointed pursuant to this paragraph shall be a member of a city council or a resident of the north county coastal cities.

(5) At a meeting of the city selection committee, the mayors of the north county inland cities shall appoint one person. The person appointed pursuant to this paragraph shall be a member of a city council or a resident of the north county inland cities.

(6) At a meeting of the city selection committee, the mayors of the south county cities shall appoint one person. The person appointed pursuant to this paragraph shall be a member of a city council or a resident of the south county cities.

(7) Meetings of a city selection committee are subject to the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code).

(b) The following persons shall be nonvoting, noncompensated, ex officio members of the board of directors, appointed by the Governor:

(1) The District Director of the Department of Transportation for the San Diego region.

(2) The Department of Finance representative on the State Lands Commission.

(c) The board of directors may provide for additional nonvoting, noncompensated members of the board of directors, including representatives of the United States Navy and the United States Marine Corps, each of whom may appoint an alternate to serve in his or her place.

(d) The Mayor of the City of San Diego shall appoint the chair of the authority board from among the members of the board of directors.

(e) To provide for an orderly transition, the appointments to the board of directors shall take effect as follows:

(1) The term of office for the board position appointed by the Mayor of the City of San Diego, whose term is set to expire on the first Monday in December 2008, is extended until January 31, 2009. This board position shall thereafter be filled pursuant to paragraph (1) of subdivision (a).

(2) The term of office for the board position appointed by the mayors of the north county inland cities is extended until January 31, 2009. This board position shall thereafter be filled pursuant to paragraph (5) of subdivision (a).

(3) The term of office for the board position appointed by the mayor of the most populous city as of the most recent decennial census, among the south county cities is extended until January 31, 2009. This board position shall thereafter be filled pursuant to paragraph (6) of subdivision (a).

(4) The term of office for the board position occupied by the Mayor of the City of San Diego, or a member of the city council designated by the mayor to be his or her alternate, shall expire on January 31, 2010. This board position shall thereafter be filled pursuant to paragraph (1) of subdivision (a).

(5) The term of office for the board position appointed by the mayors of the east county cities shall expire on January 31, 2010. This board position shall thereafter be filled pursuant to paragraph (3) of subdivision (a).

(6) The term of office for the board position appointed by the Sheriff of the County of San Diego shall expire on January 31, 2010. This board position shall thereafter be filled pursuant to paragraph (2) of subdivision (a).

(7) The term of office for the board position appointed by the Mayor of the City of San Diego as a member of the executive committee is extended until January 31, 2011. This board position shall thereafter be filled pursuant to paragraph (1) of subdivision (a).

(8) The term of office for the board position appointed by the Governor is extended until June 30, 2011. This board position shall thereafter be filled pursuant to paragraph (2) of subdivision (a).

(9) The term of office for the board position appointed by the mayors of the north county coastal cities is extended until January 31, 2011. This board position shall thereafter be filled pursuant to paragraph (4) of subdivision (a).

SEC. 9. Section 170011 is added to the Public Utilities Code, to read:

170011. (a) Except as provided in subdivision (b) and subdivision (e) of Section 170010, the term of office of a member of a board of directors appointed pursuant to subdivision (a) of Section 170010 is three years or until his or her successor qualifies and takes office

whichever date occurs last. Members of the board of directors shall take office at noon on the first Monday in February following their appointment.

(b) If a member of the board of directors is appointed to be a member as a result of holding another public office and that person no longer holds that other public office, then that person shall no longer serve on the board of directors and a vacancy shall exist.

(c) Any vacancy in the office of a member of the board of directors shall be filled promptly pursuant to Section 1779 of the Government Code. Any person appointed to fill a vacant office shall serve the balance of the unexpired term. If a member of the board of directors serving a term extended pursuant to subdivision (e) of Section 170010 leaves office prior to the expiration of his or her term, the vacancy shall be filled for the balance of the unexpired term pursuant to subdivision (a) of Section 170010, except if a vacancy occurs for the Governor's appointment to the board of directors before June 30, 2011, the Governor shall make the appointment to fill the vacant office for the balance of the unexpired term.

SEC. 10. Section 170012 is added to the Public Utilities Code, to read:

170012. (a) At the first meeting of the board of directors on or after February 4, 2008, and at the first meeting of the board on or after the first Monday in February of each even-numbered year thereafter, the board of directors shall meet and elect its officers, except for the chair of the board of directors, who shall be appointed by the Mayor of the City of San Diego.

(b) The officers of the board of directors are a chair, vice chair, and those additional officers created by the board of directors pursuant to subdivision (c). The chair shall preside over meetings of the board of directors and the vice chair shall serve during the chair's absence or inability to serve.

(c) The board of directors may create additional offices and elect members to those offices, provided that no member of the board of directors shall hold more than one office.

SEC. 11. Section 170013 is added to the Public Utilities Code, to read:

170013. (a) The board of directors shall govern the authority.

(b) The board of directors shall establish policies for the operation of the authority. The board of directors shall provide for the implementation of those policies which are the responsibility of the authority's chief executive officer.

(c) All members of the board of directors shall exercise their independent judgment on behalf of the interests of the residents, property

owners, and the public within San Diego County as a whole in furthering the purposes and intent of this division. The members of the board of directors shall represent the interests of the public as a whole and not solely the interests of the local officials who appointed them to the board of directors.

(d) The authority shall have a three-person executive committee consisting of one board member from each of the following: the City of San Diego, the County of San Diego, and one board member from among the east county cities, south county cities, north county inland cities, or north county coastal cities.

(e) The San Diego County Regional Airport Authority shall have an Audit Committee as a standing committee of the board of directors, consisting of four members of the board and those public members specified in Section 170018.

SEC. 12. Section 170014 is added to the Public Utilities Code, to read:

170014. (a) Meetings of the board of directors are subject to the provisions of the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code).

(b) A majority of the total voting membership of the board of directors shall constitute a quorum for the transaction of business.

(c) The board of directors shall act only by ordinance, resolution, or motion.

(d) (1) Except as provided in subdivision (e), to adopt an ordinance, resolution, or motion requires both a numerical and a weighted majority vote of the total voting membership of the board of directors pursuant to paragraphs (2) and (3).

(2) A numerical majority requires an affirmative vote of five of the voting membership of the board of directors.

(3) (A) A weighted majority requires an affirmative vote of 51 vote points that are allocated to the voting membership of the board of directors, unless the total number of vote points is expanded beyond 100 as a result of the operation of subparagraph (E). If the total number of vote points is greater than 100 as a result of the operation of subparagraph (E), a weighted majority requires an affirmative vote of 50 percent plus one of the total vote points. Vote points shall be allocated pursuant to subparagraph (B).

(B) There shall be a total of 100 allocated vote points for the weighted vote, except that additional vote points shall be allocated pursuant to subparagraph (E). For purposes of this paragraph, the City of San Diego, the County of San Diego, the east county cities, the north county coastal cities, the north county inland cities, and the south county cities are each

a jurisdiction. The points allocated to the City of San Diego shall be divided among the three board members appointed pursuant to paragraph (1) of subdivision (a), and prior to their appointment, to those board members identified in paragraphs (1), (4), and (7) of subdivision (e) of Section 170010. The points shall be allocated among the three board members by the Mayor of the City of San Diego, keeping the votes for each seat as close to equal as possible but in a manner that avoids fractional vote points. The vote points allocated to the County of San Diego shall be divided between the two board members appointed pursuant to paragraph (2) of subdivision (a), and prior to their appointment, to those board members identified in paragraphs (6) and (8) of subdivision (e) of Section 170010. The vote points shall be allocated among the two board members by the chair of the board of supervisors, keeping the votes for each seat as close to equal as possible but in a manner that avoids fractional vote points. Each jurisdiction shall have that number of vote points determined by the following allocation formula, except that each jurisdiction shall have at least one vote point, no jurisdiction shall have more than 40 vote points, and there shall be no fractional vote points:

(i) If any jurisdiction has 40 percent or more of the total population of the San Diego County region, 40 vote points shall be allocated to that jurisdiction and the remaining vote points shall be allocated to the remaining jurisdictions pursuant to clause (ii). If no jurisdiction has 40 percent or more of the total population of the San Diego County region, vote points shall be allocated pursuant to clause (iii).

(ii) The total population of the remaining jurisdictions shall be computed and the remaining 60 vote points allocated based upon the percentage of the total that each jurisdiction has, in the following manner:

(I) The percentage each jurisdiction bears to the total remaining population shall be multiplied by 60 to determine fractional shares.

(II) Each fraction less than one shall be rounded up to one, so that no jurisdiction has less than one vote point.

(III) Disregarding any fractional vote points and adding just the whole vote points, if the total vote points is 60, fractional vote points are dropped and the whole numbers are the vote points for each jurisdiction.

(IV) If, after disregarding the fractional vote points and adding just the whole vote points, the total vote points for the remaining jurisdictions is less than 60, the difference in vote points shall be allocated to jurisdictions in order of the highest fractions until a total of 60 vote points are allocated, excepting those jurisdictions whose vote was increased to one pursuant to subclause (II).

(V) If, after disregarding the fractional vote points and adding just the whole vote points, the total vote points for the remaining jurisdictions

is more than 60, the vote points in excess of 60 shall be eliminated by subtracting vote points from jurisdictions with the lowest percentage to the total remaining population except that no jurisdiction's vote points shall be reduced to less than one.

(iii) If no jurisdiction has 40 percent or more of the total population of the San Diego County region, the total population of the region shall be computed and all 100 vote points shall be allocated based upon the percentage each jurisdiction bears to the total population of the region, in the following manner:

(I) The percentage of any jurisdiction that is less than one shall be rounded up to one, so that no jurisdiction has less than one vote point.

(II) Disregarding any fractional vote points and adding just the whole vote points, if the total vote points is 100, fractional vote points shall be dropped and the whole numbers shall be the vote points for each jurisdiction.

(III) If, after disregarding the fractional vote points and adding just the whole vote points, the total vote points for all jurisdictions is less than 100, the difference in vote points shall be allocated to jurisdictions in order of the highest fractions until a total of 100 vote points are allocated, excepting those jurisdictions whose vote was increased to one pursuant to subclause (I).

(IV) If, after disregarding the fractional vote points and adding just the whole vote points, the total vote points for all jurisdictions is more than 100, the vote points in excess of 100 shall be eliminated by subtracting vote points from jurisdictions with the lowest percentage to the total population or the region except that no jurisdiction's vote points shall be reduced to less than one.

(C) When a weighted vote is taken on any item that requires more than a majority vote of the board, it shall also require the same supermajority percentage of the weighted vote.

(D) The allocation of vote points pursuant to this subdivision shall be made every July 1 by the board of directors based upon the population calculations made by the San Diego Association of Governments (SANDAG).

(E) Any other newly incorporated city shall be added to the jurisdiction designated by SANDAG. The board member representing that jurisdiction shall receive one additional vote under the weighted vote procedure specified above until the next allocation of vote points pursuant to subparagraph (D), at which time the new jurisdiction shall receive votes in accordance with the formula specified in this paragraph. Until this next vote points allocation, the total number of weighted vote points may exceed 100.

(e) Any act to submit a ballot measure to the voters at a regular or special election shall require a two-thirds majority vote, both numerically and by weighted vote, of the total voting membership of the board of directors.

(f) The board of directors shall keep a record of all of its actions, including financial transactions.

(g) The board of directors shall adopt rules or bylaws for its proceedings.

(h) The board of directors shall adopt policies for the operation of the authority, including, but not limited to, ethical standards and practices, administrative policies, fiscal policies, personnel policies, and purchasing policies.

SEC. 13. Section 170016 of the Public Utilities Code is repealed.

SEC. 14. Section 170016 is added to the Public Utilities Code, to read:

170016. (a) The board of directors may adopt and enforce rules and regulations for the administration, maintenance, operation, and use of its facilities and services.

(b) A person who violates a rule, regulation, or ordinance adopted by the board of directors is guilty of a misdemeanor punishable pursuant to Section 19 of the Penal Code, or an infraction under the circumstances set forth in paragraph (1) or (2) of subdivision (d) of Section 17 of the Penal Code.

(c) The authority may employ necessary personnel to enforce this section.

SEC. 15. Section 170017 is added to the Public Utilities Code, to read:

170017. (a) The board of directors may provide, by ordinance or resolution, that each of its members may receive compensation in an amount not to exceed two hundred dollars ($200) for each day of service. A member of the board of directors shall not receive compensation for more than eight days of service a month. A board member must be present for at least half of the time set for the meeting, or for the duration of the meeting, whichever is less, in order to be eligible for compensation.

(b) By a two-thirds vote of the majority, the board of directors may, by ordinance or resolution, modify the amount of compensation provided pursuant to subdivision (a).

(c) The board of directors, by ordinance or resolution, may provide for the chair to receive an amount, not to exceed five hundred dollars ($500) a month, in addition to all other compensation provided pursuant to this section.

(d) The board of directors may provide, by ordinance or resolution, that its members may receive their actual and necessary traveling and

incidental expenses incurred while on official business. Reimbursement of these expenses is subject to Article 2.3 (commencing with Section 53232) of Chapter 2 of Part 1 of Division 2 of Title 5 of the Government Code, except that the provisions of this section shall prevail over the provisions of Section 53232.1 of the Government Code to the extent of any conflict.

(e) The members of the board of directors shall not receive any benefits pursuant to Chapter 2 (commencing with Section 53200) of Part 1 of Division 2 of Title 5 of the Government Code.

(f) A member of the board of directors may waive any or all of the payments permitted by this section.

(g) For the purposes of this section, a "day of service" means any of the following:

(1) A meeting conducted pursuant to the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code).

(2) Representation of the authority at a public event, provided that the board of directors has previously approved the member's representation at a board of directors' meeting and that the member delivers a written report to the board of directors regarding the member's representation at the next board of directors' meeting following the public event.

(3) Representation of the authority at a public meeting or a public hearing conducted by another public agency, provided that the board of directors has previously approved the member's representation at a board of directors' meeting and that the member delivers a written report to the board of directors regarding the member's representation at the next board of directors' meeting following the public meeting or public hearing.

(4) Representation of the authority at a meeting of a public benefit nonprofit corporation on whose board the authority has membership, provided that the board of directors has previously approved the member's representation at a board of directors' meeting and the member delivers a written report to the board of directors regarding the member's representation at the next board of directors' meeting following the corporation's meeting.

(5) Participation in a training program on a topic that is directly related to the authority, provided that the board of directors has previously approved the member's participation at a board of directors' meeting, and that the member delivers a written report to the board of directors regarding the member's participation at the next board of directors' meeting following the training program.

(6) Representation of the authority at an official meeting, if the board of directors has previously approved the member's representation at a meeting of the board of directors and the member delivers a written report to the board of directors regarding the member's representation at the next meeting of the board of directors.

SEC. 16. Section 170018 of the Public Utilities Code is repealed.

SEC. 17. Section 170018 is added to the Public Utilities Code, to read:

170018. (a) On or before July 1, 2008, the board of directors shall expand the membership of the Audit Committee, a standing committee of the board of directors consisting of four board members, to include three members of the public who shall be voting members. The public members shall be appointed by the board of directors for staggered three-year terms commencing July 1, 2008.

(b) The board of directors shall select the three public members from among the following categories of persons, with no more than one appointee from each category at any one time:

(1) A professional with experience in the field of public finance and budgeting.

(2) An architect or civil engineer licensed to practice in this state.

(3) A professional with experience in the field of real estate or land economics.

(4) A person with experience in managing construction of large-scale public works projects.

(5) A person with public or private sector executive level decisionmaking experience.

(6) A person who resides within the airport influence area of the San Diego International Airport (Lindbergh Field).

(7) A person with experience in environmental justice as it pertains to land use.

(c) The board of directors may appoint other persons to serve as nonvoting, noncompensated, ex officio members on the Audit Committee.

(d) In appointing the public members of the Audit Committee, the board of directors shall provide for selection policies, appointment procedures, conflict-of-interest policies, length-of-term policies, and policies for providing compensation, if any.

(e) The Audit Committee shall serve as a guardian of the public trust, acting independently and charged with oversight responsibilities for reviewing the authority's internal controls, financial reporting obligations, operating efficiencies, ethical behavior, and regular attention to cashflows, capital expenditures, regulatory compliance, and operations.

(f) The Audit Committee shall meet a minimum of four times per year and shall, at a minimum, do all the following:

(1) Regularly review the authority's accounting, audit, and performance monitoring processes.

(2) At the time of contract renewal, recommend to the executive committee and the full board of directors its nomination for an external auditor and the compensation of that auditor, and consider at least every three years, whether there should be a rotation of the audit firm or the lead audit partner to ensure continuing auditor independence.

(3) Advise the executive committee and the board of directors regarding the selection of the auditor.

(4) Be responsible for oversight and monitoring of internal and external audit functions, and monitoring performance of, and internal compliance with, authority policies and procedures.

(5) Be responsible for overseeing the annual audit by the external auditors and any internal audits.

(6) Make recommendations to the full board regarding paragraphs (1) to (5), inclusive.

(g) An affirmative vote by at least five members of the Audit Committee shall be required for approval of the annual internal and external audits, including performance monitoring, the auditor's annual audit plan for each fiscal year submitted to the board for approval, and actions recommending or approving debt financing for the authority.

SEC. 18. Section 170020 of the Public Utilities Code is repealed.

SEC. 19. Section 170022 of the Public Utilities Code is repealed.

SEC. 20. Section 170024 of the Public Utilities Code is repealed.

SEC. 21. Section 170024 is added to the Public Utilities Code, to read:

170024. (a) Upon request of the board of directors of the authority, and with the consent of any labor organization acting as the exclusive representative of employees of the authority whose rights are governed by a collective bargaining agreement, the board may enter into a contract to enroll those employees as members of the California Public Employees' Retirement System (CalPERS) or another retirement system.

(b) A contract to enroll employees in CalPERS shall be subject to the provisions of Part 3 (commencing with Section 20000) of Division 5 of Title 2 of the Government Code and, where permitted by the law governing that system, shall receive full reciprocity with public employees' retirement systems in which they previously participated.

(c) Employees transferred from any existing retirement system or pension plan to CalPERS or any other retirement system by operation of this section shall receive benefits immediately after enrollment in, or transfer to, the system that are equal to the benefits the employees would have been entitled to immediately before enrollment in, or transfer to, the system.

(d) Notwithstanding any other provision of law, as a result of implementation of the San Diego County Regional Airport Authority Reform Act of 2007, no employee that is not a member of the authority's executive committee shall incur loss of employment or reduction in wages, health and welfare benefits, seniority, retirement benefits or contributions made to retirement plans, or other terms and conditions of employment. The board of directors of the authority shall recognize all labor organizations and labor agreements in effect on January 1, 2008, that do not concern employees serving on the authority's executive committee.

SEC. 22. Section 170026 of the Public Utilities Code is amended to read:

170026. (a) The board of directors shall appoint the following executive employees of the authority:

(1) Chief executive officer.

(2) General counsel.

(3) Auditor.

(b) The chief executive officer shall be responsible for all of the following:

(1) The implementation of the policies established by the board of directors for the operation of the authority.

(2) The appointment, supervision, discipline, and dismissal of the authority's other employees, including the deputy chief executive officer, consistent with the employee relations system established by the board of directors.

(3) The supervision of the authority's facilities and services.

(4) The supervision of the authority's finances.

SEC. 23. Section 170028 of the Public Utilities Code is repealed.

SEC. 24. Section 170032 of the Public Utilities Code is amended to read:

170032. (a) The authority may sue and be sued in all actions and proceedings, in all courts and tribunals of competent jurisdiction.

(b) All claims for money or damages against the authority are governed by Part 3 (commencing with Section 900) and Part 4 (commencing with Section 940) of Division 3.6 of Title 1 of the Government Code.

SEC. 25. Section 170041 of the Public Utilities Code is repealed.

SEC. 26. Section 170042 of the Public Utilities Code is repealed.

SEC. 27. Section 170046 of the Public Utilities Code is repealed.

SEC. 28. Section 170048 of the Public Utilities Code is amended to read:

170048. (a) The authority has exclusive responsibility to study, plan, and implement any improvements, expansion, or enhancements at San Diego International Airport.

(b) The authority may commission planning, engineering, economic, and other studies to provide information to the board for making decisions about the location, design, management, and other features of future airports.

(c) The San Diego Association of Governments, or its successor, shall cooperate with the authority to include all airport system plans and facilities selected by the authority in the regional transportation plan consistent with state and federal law.

(d) The authority, the San Diego Association of Governments, local agencies, and the Department of Transportation shall cooperate to develop effective surface transportation access to new and existing airports.

(e) The authority shall adopt a comprehensive plan on the future development of San Diego's regional international airport. In developing its plan, the authority shall review all options of alternative sites, including, but not limited to, expansion of the existing airport site and other development options available to address future airport needs.

SEC. 29. (a) It is the intent of the Legislature to dissolve the board of directors of the San Diego County Regional Airport Authority, appointed pursuant to Section 17016 of the Public Utilities Code, as that section existed on December 31, 2007, and to replace that board of directors with a new board of directors appointed pursuant to subdivisions (a) and (e) of Section 170010 of the Public Utilities Code, as added by this act.

(b) The initial appointments required by subdivisions (a) and (e) of Section 170010 of the Public Utilities Code shall be made on or before January 31, 2009.

SEC. 30. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

CHAPTER 288

An act to amend Sections 1516, 1526.8, and 1596.792 of the Health and Safety Code, and to amend Sections 11402 and 11462.7 of, and to add and repeal Section 11400.1 of, the Welfare and Institutions Code, relating to community care facilities.

[Approved by Governor October 5, 2007. Filed with
Secretary of State October 5, 2007.]

The people of the State of California do enact as follows:

SECTION 1. (a) The Legislature finds that there exists a class of residential care facilities outside of the traditional spectrum of community care facilities, that provide short-term nonmedical care and supervision for children of families in crisis, help parents address issues that lead them to seek assistance, and dedicate themselves to preventing the occurrence of child abuse in these families. By providing an option for direct voluntary placement by parents and legal guardians, these crisis nurseries serve to prevent the need for more serious intervention for families in need. Crisis nurseries further serve a need by providing county child welfare service agencies with temporary emergency shelter care for children in need of care and supervision.

(b) The Legislature further finds that crisis nurseries provide a service that is inadequately defined by existing law, and that it is the intent of the Legislature in enacting this act to continue policies to ensure that these facilities may successfully carry out their mission of child abuse prevention, while ensuring the quality care and safety of the children under their responsibility.

SEC. 2. Section 1516 of the Health and Safety Code is amended to read:

1516. (a) For purposes of this chapter, "crisis nursery" means a facility licensed by the department pursuant to subdivision (j) to provide short-term, 24-hour nonmedical residential care and supervision for children under six years of age, who are either voluntarily placed for temporary care by a parent or legal guardian due to a family crisis or a stressful situation, for no more than 30 days or, except as provided in subdivision (e), who are temporarily placed by a county child welfare service agency for no more than 14 days.

(b) Crisis nurseries shall be organized and operated on a nonprofit basis by private nonprofit corporations or nonprofit public benefit corporations.

(c) "Voluntary placement," for purposes of this section, means a child, who is not receiving Aid to Families with Dependent Children-Foster Care, placed by a parent or legal guardian who retains physical custody of, and remains responsible for, the care of his or her children who are placed for temporary emergency care, as described in subdivision (a).

(d) A crisis nursery may also provide temporary emergency care to children under six years of age who have been taken into the protective

custody of, or are placed directly by, the county child welfare services system that has assumed responsibility for the care of the children.

(e) County placements, as described in subdivision (d), shall be limited to no more than one-third of a crisis nursery's licensed capacity. The length of stay for a county-placed child shall not exceed 14 days unless the State Department of Social Services issues an exception.

(f) (1) Except as provided in paragraph (2), the maximum licensed capacity for crisis nursery programs shall be 14.

(2) Any facility licensed on or before January 1, 2004, as a group home for children under the age of six years with a licensed capacity greater than 14, but less than 21, that provides crisis nursery services shall be allowed to retain its capacity if issued a crisis nursery license until the time there is a change in the licensee's program, location, or client population.

(g) (1) Each crisis nursery shall submit, in a format specified by the department, a monthly report indicating the total number of children placed in the program, designating whether each child is voluntarily placed by the parents or legal guardians or placed directly by county child welfare services and the length of stay and age for each child.

(2) Each crisis nursery that accepts children placed directly by a county child welfare services agency also shall annually provide a summary report to the department within 60 days of the subsequent calender year. This report shall indicate the total number of children placed directly by a county child welfare services agency, the length of stay and age for each child, the average length of stay for all of the children placed directly by the county, and the reasons given by the county for the use of the crisis nursery for these children.

(3) When placing a child in a crisis nursery, a county child welfare agency shall inform the crisis nursery of the reason for the selection of the crisis nursery as the placement choice.

(h) Notwithstanding Section 1596.80, a crisis nursery may provide child day care services for children under the age of six years at the same site as the crisis nursery. A child may not receive child day care services at a crisis nursery for more than 30 calendar days in a six-month period unless the department issues an exception. A child who is receiving child day care services shall be counted in the licensed capacity. A child who is receiving child day care services, and who is a county placement, as described in subdivision (d), shall be counted in the limitation on county placements specified in subdivision (e).

(i) Exceptions to group home licensing regulations pursuant to subdivision (c) of Section 84200 of Title 22 of the California Code of Regulations, in effect on August 1, 2004, for county-operated or county-contracted emergency shelter care facilities that care for children

under the age of six years for no more than 30 days, shall be contained in regulations for crisis nurseries.

(j) The department may issue a license pursuant to this section only to a facility that meets one of the following conditions:

(1) The facility is operating, or has an application on file with the department to operate as of September 1, 2004, as a group home for children under six years of age in any of the following counties:

(A) Contra Costa.

(B) Nevada.

(C) Placer.

(D) Sacramento.

(E) San Joaquin.

(F) Stanislaus.

(G) Yolo.

(2) The facility, pursuant to standards developed by the department by regulation, meets an urgent, significant, and unmet need for temporary respite care of children under the age of six years.

(3) The facility offers temporary emergency shelter and services only to children under the age of six years who are voluntarily placed by a parent or guardian, as set forth in subdivision (c), and the facility does not accept county placements, as set forth in subdivision (d).

(k) This section shall remain in effect only until July 1, 2011, and as of that date is repealed, unless a later enacted statute, that is enacted before July 1, 2011, deletes or extends that date.

SEC. 3. Section 1526.8 of the Health and Safety Code is amended to read:

1526.8. (a) It is the intent of the Legislature that the department develop modified staffing levels and requirements for crisis nurseries, provided that the health, safety, and well-being of the children in care are protected and maintained.

(b) The department shall allow the use of fully trained and qualified volunteers as caregivers in a crisis nursery, subject to the following conditions:

(1) Volunteers shall be fingerprinted for the purpose of conducting a criminal record review as specified in subdivision (b) of Section 1522.

(2) Volunteers shall complete a child abuse central index check as specified in Section 1522.1.

(3) Volunteers shall be in good physical health and be tested for tuberculosis not more than one year prior to, or seven days after, initial presence in the facility.

(4) Prior to assuming the duties and responsibilities of a crisis caregiver or being counted in the staff-to-child ratio, volunteers shall complete at least eight hours of initial training divided as follows:

(A) Four hours of crisis nursery job shadowing.

(B) Two hours of review of community care licensing regulations.

(C) Two hours of review of the crisis nursery program, including the facility mission statement, goals and objectives, and special needs of the client population they serve.

(5) Within 90 days, volunteers who are included in the staff-to-child ratios shall complete at least 20 hours of training divided as follows:

(A) Twelve hours of pediatric first aid and pediatric cardiopulmonary resuscitation.

(B) Eight hours of child care health and safety issues.

(6) Volunteers who meet the requirements of paragraphs (1), (2), and (3), but who have not completed the training specified in paragraph (4) or (5) may assist a fully trained and qualified staff person in performing child care duties. However, these volunteers shall not be left alone with children, shall always be under the direct supervision and observation of a fully trained and qualified staff person, and shall not be counted in meeting the minimum staff-to-child ratio requirements.

(c) The department shall allow the use of fully trained and qualified volunteers to be counted in the staff-to-child ratio in a crisis nursery subject to the following conditions:

(1) The volunteers have fulfilled the requirements in paragraphs (1) to (4), inclusive, of subdivision (b).

(2) There shall be at least one fully qualified and employed staff person on site at all times.

(3) (A) There shall be at least one employed staff or volunteer caregiver for each group of three children, or fraction thereof, from 7 a.m. to 7 p.m.

(B) There shall be at least one paid caregiver or volunteer caregiver for each group of four children, or fraction thereof, from 7 p.m. to 7 a.m.

(C) There shall be at least one employed staff person present for every volunteer caregiver used by the crisis nursery for the purpose of meeting the minimum caregiver staffing requirements.

(d) There shall be at least one staff person or volunteer caregiver awake at all times from 7 p.m. to 7 a.m.

(e) This section shall remain in effect only until July 1, 2011, and as of that date is repealed, unless a later enacted statute, that is enacted before July 1, 2011, deletes or extends that date.

SEC. 4. Section 1596.792 of the Health and Safety Code, as amended by Section 116 of Chapter 22 of the Statutes of 2005, is amended to read:

1596.792. This chapter, Chapter 3.5 (commencing with Section 1596.90), and Chapter 3.6 (commencing with Section 1597.30) do not apply to any of the following:

(a) Any health facility, as defined by Section 1250.

(b) Any clinic, as defined by Section 1202.

(c) Any community care facility, as defined by Section 1502.

(d) Any family day care home providing care for the children of only one family in addition to the operator's own children.

(e) Any cooperative arrangement between parents for the care of their children when no payment is involved and the arrangement meets all of the following conditions:

(1) In a cooperative arrangement, parents shall combine their efforts so that each parent, or set of parents, rotates as the responsible caregiver with respect to all the children in the cooperative.

(2) Any person caring for children shall be a parent, legal guardian, stepparent, grandparent, aunt, uncle, or adult sibling of at least one of the children in the cooperative.

(3) There can be no payment of money or receipt of in-kind income in exchange for the provision of care. This does not prohibit in-kind contributions of snacks, games, toys, blankets for napping, pillows, and other materials parents deem appropriate for their children. It is not the intent of this paragraph to prohibit payment for outside activities, the amount of which may not exceed the actual cost of the activity.

(4) No more than 12 children are receiving care in the same place at the same time.

(f) Any arrangement for the receiving and care of children by a relative.

(g) Any public recreation program. "Public recreation program" means a program operated by the state, city, county, special district, school district, community college district, chartered city, or chartered city and county that meets either of the following criteria:

(1) The program is operated only during hours other than normal school hours for kindergarten and grades 1 to 12, inclusive, in the public school district where the program is located, or operated only during periods when students in kindergarten and grades 1 to 12, inclusive, are normally not in session in the public school district where the program is located, for either of the following periods:

(A) For under 16 hours per week.

(B) For a total of 12 weeks or less during a 12-month period. This total applies to any 12 weeks within any 12-month period, without regard to whether the weeks are consecutive.

In determining "normal school hours" or periods when students are "normally not in session," the State Department of Social Services shall, when appropriate, consider the normal school hours or periods when students are normally not in session for students attending a year-round school.

(2) The program is provided to children who are over the age of four years and nine months and not yet enrolled in school and the program is operated during either of the following periods:

(A) For under 16 hours per week.

(B) For a total of 12 weeks or less during a 12-month period. This total applies to any 12 weeks within any 12-month period, without regard to whether the weeks are consecutive.

(3) The program is provided to children under the age of four years and nine months with sessions that run 12 hours per week or less and are 12 weeks or less in duration. A program subject to this paragraph may permit children to be enrolled in consecutive sessions throughout the year. However, the program shall not permit children to be enrolled in a combination of sessions that total more than 12 hours per week for each child.

(h) Extended day care programs operated by public or private schools.

(i) Any school parenting program or adult education child care program that satisfies both of the following:

(1) Is operated by a public school district or operated by an individual or organization pursuant to a contract with a public school district.

(2) Is not operated by an organization specified in Section 1596.793.

(j) Any child day care program that operates only one day per week for no more than four hours on that one day.

(k) Any child day care program that offers temporary child care services to parents and that satisfies both of the following:

(1) The services are only provided to parents and guardians who are on the same premises as the site of the child day care program.

(2) The child day care program is not operated on the site of a ski facility, shopping mall, department store, or any other similar site identified by the department by regulation.

(*l*) Any program that provides activities for children of an instructional nature in a classroom-like setting and satisfies both of the following:

(1) Is operated only during periods of the year when students in kindergarten and grades 1 to 12, inclusive, are normally not in session in the public school district where the program is located due to regularly scheduled vacations.

(2) Offers any number of sessions during the period specified in paragraph (1) that when added together do not exceed a total of 30 days when only schoolage children are enrolled in the program or 15 days when children younger than schoolage are enrolled in the program.

(m) A program facility administered by the Department of Corrections and Rehabilitation that (1) houses both women and their children, and (2) is specifically designated for the purpose of providing substance abuse treatment and maintaining and strengthening the family unit

pursuant to Chapter 4 (commencing with Section 3410) of Title 2 of Part 3 of the Penal Code, or Chapter 4.8 (commencing with Section 1174) of Title 7 of Part 2 of that code.

(n) Any crisis nursery, as defined in subdivision (a) of Section 1516.

(o) This section shall remain in effect only until July 1, 2011, and as of that date is repealed, unless a later enacted statute, that is enacted before July 1, 2011, deletes or extends that date.

SEC. 5. Section 1596.792 of the Health and Safety Code, as amended by Section 117 of Chapter 22 of the Statutes of 2005, is amended to read:

1596.792. This chapter, Chapter 3.5 (commencing with Section 1596.90), and Chapter 3.6 (commencing with Section 1597.30) do not apply to any of the following:

(a) Any health facility, as defined by Section 1250.

(b) Any clinic, as defined by Section 1202.

(c) Any community care facility, as defined by Section 1502.

(d) Any family day care home providing care for the children of only one family in addition to the operator's own children.

(e) Any cooperative arrangement between parents for the care of their children when no payment is involved and the arrangement meets all of the following conditions:

(1) In a cooperative arrangement, parents shall combine their efforts so that each parent, or set of parents, rotates as the responsible caregiver with respect to all the children in the cooperative.

(2) Any person caring for children shall be a parent, legal guardian, stepparent, grandparent, aunt, uncle, or adult sibling of at least one of the children in the cooperative.

(3) There can be no payment of money or receipt of in-kind income in exchange for the provision of care. This does not prohibit in-kind contributions of snacks, games, toys, blankets for napping, pillows, and other materials parents deem appropriate for their children. It is not the intent of this paragraph to prohibit payment for outside activities, the amount of which may not exceed the actual cost of the activity.

(4) No more than 12 children are receiving care in the same place at the same time.

(f) Any arrangement for the receiving and care of children by a relative.

(g) Any public recreation program. "Public recreation program" means a program operated by the state, city, county, special district, school district, community college district, chartered city, or chartered city and county that meets either of the following criteria:

(1) The program is operated only during hours other than normal school hours for kindergarten and grades 1 to 12, inclusive, in the public school district where the program is located, or operated only during

periods when students in kindergarten and grades 1 to 12, inclusive, are normally not in session in the public school district where the program is located, for either of the following periods:

(A) For under 16 hours per week.

(B) For a total of 12 weeks or less during a 12-month period. This total applies to any 12 weeks within any 12-month period, without regard to whether the weeks are consecutive.

In determining "normal school hours" or periods when students are "normally not in session," the State Department of Social Services shall, when appropriate, consider the normal school hours or periods when students are normally not in session for students attending a year-round school.

(2) The program is provided to children who are over the age of four years and nine months and not yet enrolled in school and the program is operated during either of the following periods:

(A) For under 16 hours per week.

(B) For a total of 12 weeks or less during a 12-month period. This total applies to any 12 weeks within any 12-month period, without regard to whether the weeks are consecutive.

(3) The program is provided to children under the age of four years and nine months with sessions that run 12 hours per week or less and are 12 weeks or less in duration. A program subject to this paragraph may permit children to be enrolled in consecutive sessions throughout the year. However, the program shall not permit children to be enrolled in a combination of sessions that total more than 12 hours per week for each child.

(h) Extended day care programs operated by public or private schools.

(i) Any school parenting program or adult education child care program that satisfies both of the following:

(1) Is operated by a public school district or operated by an individual or organization pursuant to a contract with a public school district.

(2) Is not operated by an organization specified in Section 1596.793.

(j) Any child day care program that operates only one day per week for no more than four hours on that one day.

(k) Any child day care program that offers temporary child care services to parents and that satisfies both of the following:

(1) The services are only provided to parents and guardians who are on the same premises as the site of the child day care program.

(2) The child day care program is not operated on the site of a ski facility, shopping mall, department store, or any other similar site identified by the department by regulation.

(*l*) Any program that provides activities for children of an instructional nature in a classroom-like setting and satisfies both of the following:

(1) Is operated only during periods of the year when students in kindergarten and grades 1 to 12, inclusive, are normally not in session in the public school district where the program is located due to regularly scheduled vacations.

(2) Offers any number of sessions during the period specified in paragraph (1) that when added together do not exceed a total of 30 days when only schoolage children are enrolled in the program or 15 days when children younger than schoolage are enrolled in the program.

(m) A program facility administered by the Department of Corrections that (1) houses both women and their children, and (2) is specifically designated for the purpose of providing substance abuse treatment and maintaining and strengthening the family unit pursuant to Chapter 4 (commencing with Section 3410) of Title 2 of Part 3 of the Penal Code, or Chapter 4.8 (commencing with Section 1174) of Title 7 of Part 2 of that code.

(n) This section shall become operative on July 1, 2011.

SEC. 6. Section 11400.1 is added to the Welfare and Institutions Code, to read:

11400.1. (a) For purposes of this article, "crisis nursery" means a facility licensed to provide short-term, 24-hour nonmedical residential care and supervision for children under six years of age who are either voluntarily placed for temporary care by a parent or legal guardian due to a family crisis or stressful situation for no more than 30 days or, except as provided in subdivision (e) of Section 1516 of the Health and Safety Code, who are temporarily placed by a county child welfare service agency for no more than 14 days.

(b) This section shall remain in effect only until July 1, 2011, and as of that date is repealed, unless a later enacted statute, that is enacted before July 1, 2011, deletes or extends that date.

SEC. 7. Section 11402 of the Welfare and Institutions Code, as amended by Section 8 of Chapter 664 of the Statutes of 2004, is amended to read:

11402. In order to be eligible for AFDC-FC, a child shall be placed in one of the following:

(a) The approved home of a relative, provided the child is otherwise eligible for federal financial participation in the AFDC-FC payment.

(b) (1) The licensed family home of a nonrelative.

(2) The approved home of a nonrelative extended family member as described in Section 362.7.

(c) A licensed group home, as defined in subdivision (h) of Section 11400, provided that the placement worker has documented that the placement is necessary to meet the treatment needs of the child and that the facility offers those treatment services.

(d) The home of a nonrelated legal guardian or the home of a former nonrelated legal guardian when the guardianship of a child who is otherwise eligible for AFDC-FC has been dismissed due to the child's attaining 18 years of age.

(e) An exclusive-use home.

(f) A licensed transitional housing placement facility, as described in Section 1559.110 of the Health and Safety Code, and as defined in Section 11400.

(g) An out-of-state group home, provided that the placement worker, in addition to complying with all other statutory requirements for placing a minor in an out-of-state group home, documents that the requirements of Section 7911.1 of the Family Code have been met.

(h) A licensed crisis nursery, as described in Section 1516 of the Health and Safety Code, and as defined in subdivision (a) of Section 11400.1.

(i) This section shall remain in effect only until July 1, 2011, and as of that date is repealed, unless a later enacted statute, that is enacted before July 1, 2011, deletes or extends that date.

SEC. 8. Section 11402 of the Welfare and Institutions Code, as added by Section 9 of Chapter 664 of the Statutes of 2004, is amended to read:

11402. In order to be eligible for AFDC-FC, a child shall be placed in one of the following:

(a) The approved home of a relative, provided the child is otherwise eligible for federal financial participation in the AFDC-FC payment.

(b) (1) The licensed family home of a nonrelative.

(2) The approved home of a nonrelative extended family member as described in Section 362.7.

(c) A licensed group home, as defined in subdivision (h) of Section 11400, provided that the placement worker has documented that the placement is necessary to meet the treatment needs of the child and that the facility offers those treatment services.

(d) The home of a nonrelated legal guardian or the home of a former nonrelated legal guardian when the guardianship of a child who is otherwise eligible for AFDC-FC has been dismissed due to the child's attaining 18 years of age.

(e) An exclusive-use home.

(f) A licensed transitional housing placement facility as described in Section 1559.110 of the Health and Safety Code and as defined in Section 11400.

(g) An out-of-state group home, provided that the placement worker, in addition to complying with all other statutory requirements for placing a minor in an out-of-state group home, documents that the requirements of Section 7911.1 of the Family Code have been met.

(h) This section shall become operative on July 1, 2011.

SEC. 9. Section 11462.7 of the Welfare and Institutions Code is amended to read:

11462.7. (a) To the extent federal financial participation is available, the department shall set a foster care rate for crisis nurseries, as defined in Section 1516 of the Health and Safety Code and subdivision (t) of Section 11400.

(b) The rate structure required to implement this section shall be adopted as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The adoption of these regulations shall be deemed an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, emergency regulations adopted to implement this section shall not be subject to the review and approval of the Office of Administrative Law. These regulations shall become effective immediately upon filing with the Secretary of State.

(c) Until the department adopts emergency regulations for establishing a rate for crisis nurseries, the rates shall be established using the foster care ratesetting system for group homes and subject to all of the requirements of Article 6 (commencing with Section 11450) of Chapter 2 of Part 3 of Division 9.

(d) Volunteers shall not be included in staff-to-child ratios used in the rate level determination.

(e) This section shall remain in effect only until July 1, 2011, and as of that date is repealed, unless a later enacted statute, that is enacted before July 1, 2011, deletes or extends that date.

SEC. 10. No appropriation pursuant to Section 15200 of the Welfare and Institutions Code shall be made for the purposes of implementing this act.

SEC. 11. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CHAPTER 289

An act to add Sections 1252.3 and 1279.1 to the Unemployment Insurance Code, relating to unemployment compensation, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 5, 2007. Filed with Secretary of State October 5, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 1252.3 is added to the Unemployment Insurance Code, to read:

1252.3. (a) Notwithstanding Section 1252, an individual is also "unemployed," as determined by the director, if all of the following conditions are satisfied:

(1) The individual has been laid off from his or her most recent work, or is unable to commence work at his or her regular or seasonal workplace, as a direct result of freezing weather conditions that occurred in this state beginning January 11, 2007, and continuing.

(2) The individual worked or was scheduled to commence work in a county specifically designated by the Governor as being in a state of emergency as a result of the freezing conditions beginning January 11, 2007, and continuing.

(3) The individual's continuing unemployment is a direct result of the freezing weather.

(4) The wages payable to the individual for any week of less than full-time work, when reduced by two hundred dollars ($200), do not equal or exceed the individual's weekly benefit amount.

(5) The individual is otherwise eligible to receive benefits under this part.

(b) This section shall become inoperative and shall be repealed on November 4, 2007.

SEC. 2. Section 1279.1 is added to the Unemployment Insurance Code, to read:

1279.1. (a) Notwithstanding Section 1279, an individual who is unemployed for any week pursuant to Section 1252.3 shall be paid with respect to that week an unemployment compensation benefit in an amount equal to his or her weekly benefit amount less the amount of wages in excess of two hundred dollars ($200) payable to him or her for work performed during that week. Benefits shall be payable for weeks of unemployment after allowing for the waiting period required by

subdivision (d) of Section 1253. The benefit payment, if not a multiple of one dollar ($1), shall be computed to the next higher multiple of one dollar ($1).

(b) For the purposes of this section, "wages" includes any and all compensation for personal services whether performed as an employee, an independent contractor, or a juror or witness, but does not include any payments, regardless of their designation, made by a city in this state to an elected official of the city as an incident to that public office, or any payment made to a member of the National Guard or reserve component of the Armed Forces for inactive duty training, annual training, or emergency state active duty.

(c) This section shall become inoperative and shall be repealed on November 4, 2007.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

Because workers of low and moderate income are in need of financial support as soon as possible as a result of an unforeseen natural disaster, it is necessary for this act to take effect immediately.

CHAPTER 290

An act to add Section 31663.15 to the Government Code, relating to county employees' retirement.

[Approved by Governor October 5, 2007. Filed with Secretary of State October 5, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 31663.15 is added to the Government Code, to read:

31663.15. (a) Sections 31662.4, 31662.6, 31662.8, and 31663 shall not apply to a person who is an active safety member described in Section 31469.3 or 31470.4 if a physician employed or approved by the county certifies that the safety member is capable of performing his or her assigned duties pursuant to standards set forth by the member's employer.

(b) This section shall also apply to a member who reinstates from retirement pursuant to Section 31680.8.

(c) This section applies only to a county of the first class, as defined by Section 28020, as amended by Chapter 1204 of the Statutes of 1971, and Section 28022, as amended by Chapter 43 of the Statutes of 1961.

(d) This section shall not be operative in any county until the board of supervisors shall, by resolution adopted by a majority vote, make this section and Section 31680.8 applicable in the county. The resolution of the board of supervisors may designate a date, which may be prior to the date of the resolution or the effective date of this section, upon which the resolution and this section shall be operative in the county.

CHAPTER 291

An act to amend Section 11323 of the Business and Professions Code, and to add Article 7 (commencing with Section 1090.5) to Chapter 1 of Title 4 of Part 4 of Division 2 of the Civil Code, relating to real estate appraisals, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 5, 2007. Filed with Secretary of State October 5, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 11323 of the Business and Professions Code is amended to read:

11323. No licensee shall engage in any appraisal activity in connection with the purchase, sale, transfer, financing, or development of real property if his or her compensation is dependent on or affected by the value conclusion generated by the appraisal.

SEC. 2. Article 7 (commencing with Section 1090.5) is added to Chapter 1 of Title 4 of Part 4 of Division 2 of the Civil Code, to read:

Article 7. Unlawful Influence of Appraisers

1090.5. (a) No person with an interest in a real estate transaction involving an appraisal shall improperly influence or attempt to improperly influence, through coercion, extortion, or bribery, the development, reporting, result, or review of a real estate appraisal sought in connection with a mortgage loan.

(b) Subdivision (a) does not prohibit a person with an interest in a real estate transaction from asking an appraiser to do any of the following:

(1) Consider additional, appropriate property information.

(2) Provide further detail, substantiation, or explanation for the appraiser's value conclusion.

(3) Correct errors in the appraisal report.

(c) If a person who violates this section is licensed under any state licensing law and the violation occurs within the course and scope of the person's duties as a licensee, the violation shall be deemed a violation of that state licensing law.

(d) Nothing in this section shall be construed to authorize communications that are otherwise prohibited under existing law.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to take immediate steps to bring credibility to mortgage lending in California, and to protect consumers and other participants in mortgage transactions from fraudulent and deceitful practices, it is necessary that this act take effect immediately.

CHAPTER 292

An act to amend Sections 99200 and 99206 of the Education Code, relating to instructional strategies.

[Approved by Governor October 5, 2007. Filed with Secretary of State October 5, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 99200 of the Education Code is amended to read:

99200. (a) With funds appropriated therefor, and with the approval of the Concurrence Committee, the Regents of the University of California shall establish and maintain cooperative endeavors designed to accomplish the following:

(1) Develop and enhance teachers' subject matter and content knowledge in the subject matter areas specified in Section 99201.

(2) Develop and enhance teachers' instructional strategies to improve student learning and academic performance as measured against State Board of Education standards adopted pursuant to Section 60605 and, where applicable, to standards adopted pursuant to Section 60811.

(3) Provide teachers with instructional strategies for working with English learners.

(4) Provide teachers with access to and opportunity to examine current research that is demonstrably linked to improved student learning and achievement as measured by performance levels on state tests administered pursuant to Section 60605 or on English language development assessments developed, pursuant to Chapter 7 (commencing with Section 60810) of Part 33 of Division 4 of Title 2, for English language learners.

(5) Maintain subject-specific professional communities that create and encourage ongoing opportunities for teacher learning and research.

(6) Develop and deploy as teacher leaders, teachers with demonstrated levels of expertise in the classroom and certifiable levels of content knowledge.

(b) The duties of the Concurrence Committee shall include, but need not be limited to, all of the following:

(1) Ensuring that the statewide and local subject matter projects comply with requirements of this chapter.

(2) Developing rules and regulations for the statewide subject matter projects.

(3) Providing a final report to the Governor and to appropriate policy and fiscal committees of the Legislature on or before January 1, 2011, on the subject matter projects. The report shall include, but need not be limited to, all of the following information, compiled for a four-year period:

(A) The number, and level of experience, of participants in each subject matter project.

(B) The total amount of funds expended, on an annual basis, for each subject matter project.

(C) An explanation of the type of professional development activities offered pursuant to each subject matter project.

(D) A list including the name and location of each school affiliated with a subject matter project.

(c) Grants to establish local sites of statewide subject matter projects shall be available to institutions of higher education, county offices of education and school districts, or any combination thereof, with a subject matter proposal approved pursuant to this article. Once established, each

subject matter project shall be administered by the University of California in cooperation with the Concurrence Committee. Local sites of statewide subject matter projects shall be distributed throughout the state so that elementary, secondary, and postsecondary school personnel located in rural, urban, and suburban areas may avail themselves of subject matter projects.

(d) The Concurrence Committee shall be composed of individuals who are affiliated with leadership, management, or instruction, in education or education policy entities and shall be selected as follows:

(1) One representative selected by the Regents of the University of California.

(2) One representative selected by the Board of Trustees of the California State University.

(3) Two representatives selected by the State Board of Education, at least one of whom has significant experience with direct classroom instruction.

(4) One representative selected by the Governor.

(5) One representative selected by the Commission on Teacher Credentialing.

(6) One representative selected by the Curriculum Development and Supplemental Materials Commission.

(7) One representative of the California Community Colleges selected by the Board of Governors of the California Community Colleges.

(8) One representative of an independent postsecondary institution selected by the Association of Independent California Colleges and Universities.

SEC. 2. Section 99206 of the Education Code is amended to read:

99206. This article shall become inoperative on June 30, 2012, and, as of January 1, 2013, is repealed, unless a later enacted statute that is enacted before January 1, 2013, deletes or extends the dates on which it becomes inoperative and is repealed.

CHAPTER 293

An act to add Chapter 5 (commencing with Section 3351) to Part 2 of Division 3 of the Food and Agricultural Code, relating to state fairs.

[Approved by Governor October 5, 2007. Filed with Secretary of State October 5, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Chapter 5 (commencing with Section 3351) is added to Part 2 of Division 3 of the Food and Agricultural Code, to read:

Chapter 5. State Fair Leasing Authority

3351. (a) There is hereby created the State Fair Leasing Authority, a joint powers authority formed pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code, which shall be composed of the Department of Food and Agriculture, the Department of Finance, the Department of General Services, and the California Exposition and State Fair.

(b) For the purposes of Section 6502 of the Government Code, the common powers to be exercised by the State Fair Leasing Authority shall be the powers of a district agricultural association.

3352. (a) The authority shall be governed by a board of directors which shall be composed of the Secretary of Food and Agriculture, the Director of Finance, the Director of General Services, and four individuals, appointed as provided in paragraph (1), who are members of the Board of Directors of the California Exposition and State Fair. The Treasurer and Controller shall be members of the board of the authority only for the purposes of hearing and deciding upon matters related to the issuance of revenue bonds pursuant to this chapter. The Director of Finance shall serve as chairperson of the authority. All meetings of the authority shall be open and public.

(1) Of the four appointed members of the Board of Directors of the California Exposition and State Fair, one shall be appointed by the Speaker of the Assembly, one shall be appointed by the Senate Committee on Rules, and two shall be appointed by the Governor.

(2) The authority may contract with consultants as approved by the board of the authority. The authority may not employ any other staff.

(3) The general manager of the California Exposition and State Fair may only serve in an advisory capacity to the authority.

(b) The authority is a "department" for the purposes of hearings pursuant to Article 2 (commencing with Section 11180) of Chapter 2 of Part 1 of Division 3 of the Government Code.

3353. (a) The California Exposition and State Fair shall provide clerical services and the use of its staff without charge to the authority. The Department of Finance, the Department of Food and Agriculture, the Department of General Services, and the California Horse Racing Board shall cooperate with the authority, and, upon request of the

chairperson of the authority, shall provide the authority with the reasonable and periodic use of their staffs.

(b) The Attorney General shall serve as counsel for, and adviser to, the authority, and shall approve outside counsel to the authority in furtherance of the provisions of this chapter, as requested by the chairperson of the authority.

(c) The costs, if any, for services to the authority specified in subdivisions (a) and (b) shall be paid for by the authority, with funds generated pursuant to this chapter. Any costs in excess of the funds available to the authority shall be paid by the California Exposition and State Fair.

3354. The authority may enter into leases or other agreements for the use of the State Fair Race Track or any other property owned or controlled by the California Exposition and State Fair which are necessary to further the purposes of Section 3331 or to provide horse racing at the State Fair Race Track. A lease or agreement entered into pursuant to this section shall be on behalf of the California Exposition and State Fair, and the State Fair shall continue in control of its property, subject to the conditions and terms of that lease or agreement.

3355. The California Exposition and State Fair, in consultation with the authority, shall prepare a master plan approved by the board of directors of the fair for the long-range comprehensive development and improvement of, and construction upon, the property of the California Exposition and State Fair. The plan shall prescribe the amounts which may be expended for the various features of the plan, the period authorized for the completion of each project, and the terms of any revenue bond financing undertaken with respect to the plan. The plan shall require that any revenue bond financing shall be rated in one of the four highest rating categories by two nationally recognized rating agencies. Upon its completion, the master plan shall be submitted to the Joint Legislative Budget Committee for review. The master plan is subject to amendment by the authority, with the approval of the Board of Directors of the California State Fair.

3356. The California Horse Racing Board, at the request of the authority, shall certify the eligibility of any prospective lessee or user of the property to be licensed to conduct horse racing at the State Fair Race Track.

3357. (a) In leasing, or entering into agreements for the use of, the State Fair Race Track or other property owned or controlled by the California Exposition and State Fair, the authority shall follow the same procedures, as appropriate, as the Department of General Services follows in leasing or entering into similar agreements for other state real property. The authority shall also consult with and present for comment the lease

or agreement to the governing bodies of the City and County of Sacramento prior to awarding the lease or entering into the agreement.

(b) Prior to awarding a lease of, or entering into an agreement for the use of, the State Fair Race Track or other property owned or controlled by the California Exposition and State Fair, the authority shall consider all the factors concerning appropriate capital improvements of the race track, the financing of the race track, additional racing opportunities, and any use of new or additional properties or facilities, including, but not limited to, a grandstand or grandstand improvements, which factors shall be considered in the award of the lease or entering into the agreement. The authority shall also consult with and present for comment the lease or agreement to the governing bodies of the City and County of Sacramento prior to awarding the lease or entering into the agreement.

3358. If the authority makes a determination pursuant to this chapter about an action it proposes to take in awarding the State Fair Race Track lease or entering into the agreement, it shall report to the Legislature, setting forth the procedures followed by the authority in reaching its determination and the reasons the proposed award or agreement is in the best interests of the state. The authority shall also make recommendations regarding any additional legislation which it deems necessary. However, no legislative action is required to make a lease or agreement entered into by the authority effective and operative.

3359. After the award of a lease or upon entering into an agreement for the use of State Fair property, the authority shall meet periodically to review the operation of the lease or agreement, and the master plan, and to consider any other related matters. It shall also make any recommendations that it deems proper to the Legislature, other state agencies, including, but not limited to, the California Exposition and State Fair, and to the lessee or user of the property.

3360. (a) The authority, in the exercise of its powers, may pledge any and all revenues, moneys, accounts, accounts receivable, contract rights, and other rights to payment of any kind, pursuant to the terms and conditions approved by the authority. The revenues, moneys, accounts, accounts receivable, contract rights, and other rights to payment pledged by the authority or its assignees constitute a lien and security interest which immediately attaches to the property so pledged, and is effective, binding, and enforceable against the authority, its successors, purchasers of the property so pledged, creditors, and all others asserting rights therein, to the extent set forth, and in accordance with, the terms and conditions of the pledge, irrespective of whether those persons have notice of the pledge and without the need for any physical delivery, recordation, filing, or further act.

(b) The California Exposition and State Fair shall be responsible for any debt incurred pursuant to this chapter, and the capital of the California Exposition and State Fair shall be used to guarantee any indebtedness.

3361. The State of California pledges to, and agrees with, the holders of any bonds, other indebtedness, or obligations for the financing of the improvements described in the master plan pursuant to Section 3355, and which are issued or executed and delivered by the authority, or the California Exposition and State Fair, that the state will not alter or change the structure of funding of, and deposits to, the authority or to the California Exposition and State Fair pursuant to the provisions of Article 9.2 (commencing with Section 19605) of Chapter 4 of Division 8 of the Business and Professions Code, or the pledge of funds for debt service, security, including any coverage factors, and expenses entered into pursuant to this chapter until the bonds, other indebtedness, or obligations are fully paid or discharged or have been fully provided for in accordance with their terms. However, nothing precludes any alteration or change if and when adequate provision has been made by law for the protection from impairment of the contract represented by the bonds, other indebtedness, or obligations, and the right to alter or change is hereby reserved. The authority, and the California Exposition and State Fair, are each authorized to include this pledge and undertaking of the state in their bonds, agreements evidencing other indebtedness, and other indebtedness or obligations for the financing of the improvements described in the master plan pursuant to Section 3355.

The authority shall notify the Joint Legislative Budget Committee at least 90 days prior to authorizing the sale of revenue bonds pursuant to this chapter. The notice shall specify all the terms and conditions of the revenue bonds, including, but not limited to, the total amount of the bonds, the revenue source, and the repayment period. Any bond so issued shall contain on its face a statement to the following effect: "Neither the full faith and credit nor the taxing power of the State of California is pledged to the payment of the principal of, or interest on, this bond."

CHAPTER 294

An act to add Section 19858.5 to the Business and Professions Code, relating to gaming, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 5, 2007. Filed with Secretary of State October 5, 2007.]

The people of the State of California do enact as follows:

SECTION 1. It is the intent of the Legislature to permit an applicant for, or a holder of, a state gambling license to have a financial interest in another lawful gambling business inside or outside California, provided that if that applicant's or licensee's financial interest is in a business that directly or indirectly owns or operates a gambling business outside California, that applicant or licensee does not own or control, either directly or indirectly, more than 1 percent of the outstanding shares in that business, or in any way control that business. It is not the intent of the Legislature to change the prohibitions in existing law that preclude a publicly traded corporation from owning an interest in a gambling establishment, except as currently provided for in Section 19852 or 19858 of the Business and Professions Code.

SEC. 2. Section 19858.5 is added to the Business and Professions Code, to read:

19858.5. Notwithstanding Section 19858, the commission may, pursuant to this chapter, deem an applicant or licensee suitable to hold a state gambling license even if the applicant or licensee has a financial interest in another business that conducts lawful gambling outside the state that, if conducted within California, would be unlawful, provided that an applicant or licensee may not own, either directly or indirectly, more than a 1 percent interest in, or have control of, that business.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to prevent, at the earliest possible time, individuals and businesses with minimal out-of-state gambling investments from being disqualified from holding gambling licenses in California, it is necessary that this act take effect immediately.

CHAPTER 295

An act to amend Section 30005.5 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor October 5, 2007. Filed with Secretary of State October 5, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 30005.5 of the Revenue and Taxation Code is amended to read:

30005.5. "Untaxed tobacco product" means either of the following:

(a) Any tobacco product that has not yet been distributed in a manner that results in a tax liability under this part.

(b) Any tobacco product that was distributed in a manner that resulted in a tax liability under this part, but that was returned to the distributor after the tax was paid and for which the distributor has either claimed a deduction pursuant to subdivision (c) of Section 30123 or 30131.2, or a refund or credit pursuant to Section 30176.2 or Section 30178.2.

SEC. 2. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

CHAPTER 296

An act to amend Section 1393.5 of the Labor Code, relating to employment.

[Approved by Governor October 5, 2007. Filed with Secretary of State October 5, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 1393.5 of the Labor Code is amended to read:

1393.5. (a) Notwithstanding any other provision of this article or Article 2 (commencing with Section 49110) of Chapter 7 of Part 27 of the Education Code, an exemption issued pursuant to Section 1393 may authorize the employment during the peak harvest season of a minor, 16 or 17 years of age who resides in Lake County, during any day in which school is not in session for up to 10 hours per day and more than 48 hours but not more than 60 hours in any one week, only upon the prior written approval of the Lake County Office of Education.

(b) Each year, the Labor Commissioner, prior to issuing or renewing an exemption under this section, shall inspect the affected agricultural packing plant.

(c) As a condition of receiving an exemption or a renewal of an exemption under this section, an affected employer shall, on or before March 1 of each year, file a written report to the Labor Commissioner that contains the following employment information regarding the employer's prior year's payroll:

(1) The number of minors employed by that employer.

(2) A list of the age and hours worked on a weekly basis of each minor employed.

(d) Notwithstanding Chapter 24 (commencing with Section 7550) of Division 7 of Title 1 of the Government Code, the Labor Commissioner shall submit a written report to the Legislature, on or before March 1 of each year, that describes the general working conditions of minors employed in the agricultural packing industry during the past year, and that includes all of the following information:

(1) The number of minors employed in the agricultural packing industry.

(2) The number of exemptions issued, renewed, or denied pursuant to this section.

(3) A summary of the inspections conducted by the Labor Commissioner pursuant to this section.

(4) The number of workplace injuries that occurred to minors at agricultural packing plants.

(5) The number of violations of labor laws and regulations that occurred at agricultural packing plants.

(e) This section shall remain in effect only until January 1, 2012, and as of that date is repealed.

CHAPTER 297

An act to amend Section 1192.9 of the Insurance Code, relating to insurance.

[Approved by Governor October 5, 2007. Filed with Secretary of State October 5, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 1192.9 of the Insurance Code is amended to read:

1192.9. Notwithstanding Section 1100, a domestic insurer may make excess funds investments in shares of an investment company, as defined in the Federal Investment Company Act of 1940, if the requirements of subdivisions (b) and (c) are satisfied. No investment made pursuant to this section that ceases to satisfy the requirements of subdivision (b) or (c) shall be retained as an excess fund investment. No domestic insurer shall invest under any provision of this code in the shares of any investment company which has more than 33.33 percent of its

investments in foreign investments that do not comply with paragraph (4) of subdivision (b).

(a) The definitions in this subdivision apply to the following terms when used in this section:

(1) A mutual fund is an open-end management company as defined in Section 5(a)(1) of the Federal Investment Company Act of 1940 (15 U.S.C. Sec. 80(a)-5(a)(1)).

(2) An exchange traded fund is either an open-ended management company as defined in Section 5(a)(1) of the Federal Investment Company Act of 1940, or a unit investment trust as defined in Section 4(2) of the Federal Investment Company Act of 1940 (15 U.S.C. Sec. 80a-4(1)), that is registered under the Federal Investment Company Act of 1940 and that satisfies the terms of exemptive orders issued by the United States Securities and Exchange Commission which qualify it to be an exchange-traded fund.

(3) A fund is any investment company authorized in this section as an excess fund investment.

(b) The investment company shall:

(1) Be registered with and reporting to the United States Securities and Exchange Commission.

(2) Be domiciled in the United States with all assets held in the United States by a bank, trust company, or other authorized custodian chartered by the United States, its territories, possessions, or states.

(3) Have assets in excess of one hundred million dollars ($100,000,000), or be affiliated with other investment companies that have, in the aggregate, assets in excess of one billion dollars ($1,000,000,000).

(4) Have at least 66.67 percent of its investments be investments that are authorized under Article 3 (commencing with Section 1170) and Article 4 (commencing with Section 1190), except that any amount of a fund's assets may consist of investments in foreign countries that are substantially of the same kinds, classes, and investment grade as those eligible for investment under this code, but if more than 50 percent of its total investments consist of those foreign investments, then the insurer's investment in that fund shall comply with the provisions of subparagraph (C) of paragraph (1) of subdivision (c), notwithstanding any other provision of this section or this code.

(5) Have at least 36 months of active investment history.

(6) Issue its shares as fully paid and nonassessable, with no preemptive, conversion, or exchange rights.

(7) Issue its shares to the insurer or to the insurer's custodian, subcustodian, or depository designated pursuant to Section 1104.9, or have its shares be retained by a bank, trust company, or other entity other

than the investment company which is authorized by the United States to act as a transfer and dividend paying agent for the investment company.

(8) Provide equal rights and privileges to each share within the same class or series, and entitle each share within its class or series to vote and to participate equally in dividends and distributions declared by the investment company and in the net distributable assets of the investment company on liquidation.

(9) If it is a mutual fund, entitle shareholders to require the investment company to redeem all shares.

(10) If it is an exchange-traded fund, all of its shares are both of the following:

(A) Registered under the Federal Securities Act of 1933.

(B) Either listed and traded on a national securities exchange registered under the Securities Exchange Act of 1934 or have prices ascertained by quotations furnished through a nationwide automated quotations system approved by the National Association of Securities Dealers, Inc.

(11) Have no investment policies that authorize any of the following:

(A) Borrowings to exceed 33 ⅓ percent of its total assets.

(B) The aggregate notional value of its derivative instruments outstanding to exceed 10 percent of its total assets.

(C) Investment in commodities or direct ownership of real estate.

(12) Have an expense ratio that does not exceed the following amounts of its average daily net asset values:

(A) For a money market fund, 100 basis points.

(B) For a bond fund, 200 basis points.

(C) For a stock or mixed stock/bond fund, 300 basis points.

(c) An insurer shall do the following:

(1) At no time make or retain an excess fund investment under the authority of this section that exceeds the following limits:

(A) An amount of its admitted assets, as reported in its most recent annual statement, that is more than any of the following:

(i) Three percent in a single investment company or 7 percent in an affiliated group of investment companies.

(ii) Twenty-five percent in all investments authorized by this section.

(B) One hundred percent of its surplus as regards policyholders, as reported in its most recent annual statement, in all investments authorized by this section.

(C) For an investment in a fund which has more than 50 percent of its assets in investments in foreign countries that are substantially of the same kinds, classes, and investments eligible under this code, subdivision (a) of Section 1241 applies. However, an insurer described in subdivision (i) of Section 1241.1 may also include the investment within the limits

specified in that subdivision. No insurer shall invest in any such fund pursuant to any other provision of this code.

(D) An investment in any single investment company that exceeds 10 percent of the total net asset value of that investment company.

(2) Make a specific determination, pursuant to Sections 1200 and 1201, that an investment company has stated investment policies that are suitable for the insurer's investment objectives.

(d) In addition to any other remedies available under this code for any violation of this section, the commissioner may, after giving an insurer notice and an opportunity to be heard, deny credit in any financial statement filed with the commissioner for all or any part of an investment in an investment company, even if it otherwise complies with this section, if he or she finds the investment to be unsound or hazardous.

The grounds for finding an investment unsound or hazardous may include, but are not limited to, the following determinations:

(1) The investment company's investment adviser or subadviser lacks sufficient investment experience to render reliable investment advice; or lacks good professional character or good standing with any securities licensing authorities having jurisdiction over them.

(2) The portfolio turnover rate of the investment company is excessive in relation to its investment goals.

(3) The investment company's annual investment management fee, or other fees or charges incurred by the investment company or the insurer, are not reasonable when compared to charges or fees associated with similar investment companies.

(4) An investment company fails to mirror substantially any security index upon which its stated investment policy is based.

CHAPTER 298

An act to amend Section 54957.5 of the Government Code, relating to local agencies.

[Approved by Governor October 5, 2007. Filed with Secretary of State October 5, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 54957.5 of the Government Code is amended to read:

54957.5. (a) Notwithstanding Section 6255 or any other provisions of law, agendas of public meetings and any other writings, when

distributed to all, or a majority of all, of the members of a legislative body of a local agency by any person in connection with a matter subject to discussion or consideration at an open meeting of the body, are disclosable public records under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), and shall be made available upon request without delay. However, this section shall not include any writing exempt from public disclosure under Section 6253.5, 6254, 6254.3, 6254.7, 6254.15, 6254.16, or 6254.22.

(b) (1) If a writing that is a public record under subdivision (a), and that relates to an agenda item for an open session of a regular meeting of the legislative body of a local agency, is distributed less than 72 hours prior to that meeting, the writing shall be made available for public inspection pursuant to paragraph (2) at the time the writing is distributed to all, or a majority of all, of the members of the body.

(2) A local agency shall make any writing described in paragraph (1) available for public inspection at a public office or location that the agency shall designate for this purpose. Each local agency shall list the address of this office or location on the agendas for all meetings of the legislative body of that agency. The local agency also may post the writing on the local agency's Internet Web site in a position and manner that makes it clear that the writing relates to an agenda item for an upcoming meeting.

(3) This subdivision shall become operative on July 1, 2008.

(c) Writings that are public records under subdivision (a) and that are distributed during a public meeting shall be made available for public inspection at the meeting if prepared by the local agency or a member of its legislative body, or after the meeting if prepared by some other person. These writings shall be made available in appropriate alternative formats upon request by a person with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof.

(d) Nothing in this chapter shall be construed to prevent the legislative body of a local agency from charging a fee or deposit for a copy of a public record pursuant to Section 6253, except that no surcharge shall be imposed on persons with disabilities in violation of Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof.

(e) This section shall not be construed to limit or delay the public's right to inspect or obtain a copy of any record required to be disclosed under the requirements of the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1). Nothing in this chapter shall be construed to require a legislative body of a local

agency to place any paid advertisement or any other paid notice in any publication.

CHAPTER 299

An act to amend Section 7114 of the Business and Professions Code, relating to contractors.

[Approved by Governor October 5, 2007. Filed with Secretary of State October 5, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 7114 of the Business and Professions Code is amended to read:

7114. (a) Aiding or abetting an unlicensed person to evade the provisions of this chapter or combining or conspiring with an unlicensed person, or allowing one's license to be used by an unlicensed person, or acting as agent or partner or associate, or otherwise, of an unlicensed person with the intent to evade the provisions of this chapter constitutes a cause for disciplinary action.

(b) A licensee who is found by the registrar to have violated subdivision (a) shall, in accordance with the provisions of this article, be subject to the registrar's authority pursuant to Section 7099 to order payment of a specified sum to an injured party, including, but not limited to, payment for any injury resulting from the acts of the unlicensed person.

CHAPTER 300

An act to amend Section 14133.8 of, to add Sections 14132.69 and 14132.71 to, and to repeal Sections 14132.5 and 14132.7 of, the Welfare and Institutions Code, relating to Medi-Cal.

[Approved by Governor October 5, 2007. Filed with Secretary of State October 5, 2007.]

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares that a number of serious problems have recently occurred in several organ transplant programs in California.

(a) The Legislature further finds and declares that these problems highlight the need to require transplant centers to operate in a manner that best assists both those who are receiving transplants and those who are awaiting transplants, as well as organ donors and affected families, and also to make certain that proper expertise is available to accomplish these goals.

(b) It is the intent of the Legislature in enacting this act to ensure that local, state, and federal money continues to be efficiently spent, patients are protected, and that the State Department of Health Care Services further develops clarifying guidelines as they continue to implement and administer their existing utilization controls for organ transplants.

SEC. 2. Section 14132.5 of the Welfare and Institutions Code is repealed.

SEC. 3. Section 14132.69 is added to the Welfare and Institutions Code, to read:

14132.69. (a) Notwithstanding any other provision of law, donor and recipient organ transplant surgeries are covered under the Medi-Cal program when an organ transplant is provided to a beneficiary who is eligible for full-scope benefits under this chapter in a medical facility that meets the requirements of, and is approved by, the department.

(b) Any donor or recipient organ transplant surgeries authorized by the department pursuant to this chapter are subject to utilization controls.

(c) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement, interpret, or make specific this section by means of all-county letters, provider bulletins, or other instructions, without taking any further regulatory action.

(d) This section shall not apply to Section 14133.8.

SEC. 4. Section 14132.7 of the Welfare and Institutions Code is repealed.

SEC. 5. Section 14132.71 is added to the Welfare and Institutions Code, to read:

14132.71. (a) For purposes of donor and recipient organ transplant surgeries, the department shall establish standards as to both the circumstances and the criteria that the department will use for approving facilities eligible for receiving reimbursement under the Medi-Cal program.

(b) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement, interpret, or make specific this section by means of all-county letters, provider bulletins, or other instructions, without taking any further regulatory action.

SEC. 6. Section 14133.8 of the Welfare and Institutions Code is amended to read:

14133.8. (a) A bone marrow transplant for the treatment of cancer for beneficiaries who are eligible for full-scope benefits under this chapter, shall be reimbursable under this chapter, when all of the following conditions are met:

(1) The bone marrow transplant is recommended by the recipient's physician.

(2) The bone marrow transplant is performed in a hospital that is approved for participation in the Medi-Cal program.

(3) The bone marrow transplant is a reasonable course of treatment and is approved by the hospital medical policy committee when there is an existing committee or a committee can be established.

(4) The bone marrow transplant has been deemed appropriate for the recipient by the program's medical consultant. The medical consultant shall not disapprove the bone marrow transplant solely on the basis that it is classified as experimental or investigational.

(b) The program shall provide reimbursement for both donor and recipient surgery.

(c) The department may establish inpatient rates of reimbursement not in accordance with the state plan for those hospitals not under contract with the state pursuant to Article 2.6 (commencing with Section 14081), provided that the state plan is subsequently amended to reflect the method of reimbursement.

(d) This section shall not be construed as prohibiting reimbursement for any bone marrow transplants otherwise provided for under this chapter.

(e) Any bone marrow transplant authorized by the department pursuant to this section shall be subject to utilization controls.

(f) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement, interpret, or make specific this section by means of all-county letters, provider bulletins, or other instructions, without taking any further regulatory action.

CHAPTER 301

An act to amend Sections 10131.1 and 10245 of, and to add Section 10240.3 to, the Business and Professions Code, to add Sections 215.5, 22171, and 50333 to the Financial Code, and to add Section 13984 to the Government Code, relating to real estate, and making an appropriation therefor.

[Approved by Governor October 5, 2007. Filed with Secretary of State October 5, 2007.]

The people of the State of California do enact as follows:

SECTION 1. (a) The Legislature finds and declares that all of the following documents contain important risk management and consumer protection principles:

(1) The Interagency Guidance on Nontraditional Mortgage Product Risks issued in September 2006 by the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of Thrift Supervision, and the National Credit Union Administration.

(2) The Statement on Subprime Mortgage Lending issued in June 2007 by the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of Thrift Supervision, and the National Credit Union Administration.

(3) The guidance on nontraditional mortgage product risks issued in November 2006 by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators.

(4) The Statement on Subprime Mortgage Lending issued in July 2007 by the Conference of State Bank Supervisors, the American Association of Residential Mortgage Regulators, and the National Association of Consumer Credit Administrators.

(b) The Legislature finds and declares that the nontraditional mortgage product risk guidance described in paragraphs (1) and (3) of subdivision (a) covers all residential mortgage loan products that allow borrowers to defer repayment of principal or interest, including all interest-only products and negative amortization mortgages. The Legislature further finds and declares that the nontraditional mortgage product risk guidance does not cover reverse mortgages or home equity lines of credit, other than simultaneous second-lien loans. For purposes of this subdivision, "residential" refers to a one-to-four unit single-family residence.

(c) The Legislature finds and declares that the subprime mortgage lending statements described in paragraphs (2) and (4) of subdivision (a) apply to adjustable-rate mortgage products that are typically offered to subprime borrowers and that have the potential for payment shock.

(d) The Legislature finds and declares that consistent application of the documents described in subdivision (a) to state-regulated persons and institutions engaged in the brokering, originating, servicing, underwriting, and issuance of nontraditional and subprime mortgage products is critical to protect borrowers and lenders.

(e) It is the intent of the Legislature that the Department of Real Estate, the Department of Financial Institutions, and the Department of Corporations take steps to ensure that state-licensed mortgage lenders and brokers are aware of the existence and content of the documents described in subdivision (a) as soon as possible and are encouraged to comply with those documents at the earliest possible date.

SEC. 2. Section 10131.1 of the Business and Professions Code is amended to read:

10131.1. (a) A real estate broker within the meaning of this part is also a person who engages as a principal in the business of making loans or buying from, selling to, or exchanging with the public, real property sales contracts or promissory notes secured directly or collaterally by liens on real property, or who makes agreements with the public for the collection of payments or for the performance of services in connection with real property sales contracts or promissory notes secured directly or collaterally by liens on real property.

(b) As used in this section:

(1) "In the business" means any of the following:

(A) The acquisition for resale to the public, and not as an investment, of eight or more real property sales contracts or promissory notes secured directly or collaterally by liens on real property during a calendar year.

(B) The sale to or exchange with the public of eight or more real property sales contracts or promissory notes secured directly or collaterally by liens on real property during a calendar year. However, no transaction negotiated through a real estate licensee shall be considered in determining whether a person is a real estate broker within the meaning of this section.

(C) The making of eight or more loans in a calendar year from the person's own funds to the public when those loans are held or resold and are secured directly or collaterally by a lien on residential real property consisting of a single dwelling unit in a condominium or cooperative or on any parcel containing only residential buildings if the total number of units on the parcel is four or less. However, no transaction negotiated through a real estate broker who meets the criteria of

subdivision (a) or (b) of Section 10232 shall be considered in determining whether a person is a real estate broker within the meaning of this section.

(2) "Sale," "resale," and "exchange" include every disposition of any interest in a real property sales contract or promissory note secured directly or collaterally by a lien on real property, except the original issuance of a promissory note by a borrower or a real property sales contract by a vendor, either of which is to be secured directly by a lien on real property owned by the borrower or vendor.

(3) "Own funds" means either of the following:

(A) Cash, corporate capital, or warehouse credit lines at commercial banks, savings banks, savings and loan associations, industrial loan companies, or other sources that are liability items on the person's financial statements, whether secured or unsecured.

(B) Cash, corporate capital, or warehouse credit lines at commercial banks, savings banks, savings and loan associations, industrial loan companies, or other sources that are liability items on the financial statement of an affiliate of the person, whether secured or unsecured.

(4) "Own funds" does not include funds provided by a third party to fund a loan on condition that the third party will subsequently purchase or accept an assignment of the loan.

SEC. 3. Section 10240.3 is added to the Business and Professions Code, to read:

10240.3. (a) The commissioner shall apply the guidance on nontraditional mortgage product risks published on November 14, 2006, by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators, and the Statement on Subprime Mortgage Lending published on July 17, 2007, by the aforementioned entities and the National Association of Consumer Credit Administrators, to real estate brokers acting within the meaning of Section 10131.1 or subdivision (d) of Section 10131.

(b) The commissioner may adopt emergency and final regulations to clarify the application of this section as soon as possible.

(c) A real estate broker acting within the meaning of Section 10131.1 or subdivision (d) of Section 10131 shall adopt and adhere to policies and procedures that are reasonably intended to achieve the objectives set forth in the documents described in subdivision (a).

SEC. 4. Section 10245 of the Business and Professions Code is amended to read:

10245. The provisions of this article, exclusive of the provisions of Sections 10240, 10240.3, 10242.5, and 10242.6, do not apply to any bona fide loan secured directly or collaterally by a first trust deed, the principal of which is thirty thousand dollars ($30,000) or more, or to any bona fide loan secured directly or collaterally by any lien junior

thereto, the principal of which is twenty thousand dollars ($20,000) or more.

SEC. 5. Section 215.5 is added to the Financial Code, to read:

215.5. (a) The commissioner shall apply the Interagency Guidance on Nontraditional Mortgage Product Risks issued in September 2006 and the Statement on Subprime Mortgage Lending issued in June 2007 by the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of Thrift Supervision, and the National Credit Union Administration to state-regulated financial institutions, including, but not limited to, privately insured, state-chartered credit unions.

(b) The commissioner may issue emergency and final regulations to clarify the application of this section as soon as possible.

(c) A bank or credit union to which the commissioner applies the documents described in subdivision (a) shall adopt and adhere to policies and procedures that are reasonably intended to achieve the objectives set forth in those documents.

SEC. 6. Section 22171 is added to the Financial Code, to read:

22171. (a) The commissioner shall apply the guidance on nontraditional mortgage product risks published on November 14, 2006, by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators, and the Statement on Subprime Mortgage Lending published on July 17, 2007, by the aforementioned entities and the National Association of Consumer Credit Administrators, to licensees.

(b) The commissioner may adopt emergency and final regulations to clarify the application of this section as soon as possible.

(c) A licensee shall adopt and adhere to policies and procedures that are reasonably intended to achieve the objectives set forth in the documents described in subdivision (a).

SEC. 7. Section 50333 is added to the Financial Code, to read:

50333. (a) The commissioner shall apply the guidance on nontraditional mortgage product risks published on November 14, 2006, by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators, and the Statement on Subprime Mortgage Lending published on July 17, 2007, by the aforementioned entities and the National Association of Consumer Credit Administrators, to licensees.

(b) The commissioner may adopt emergency and final rules to clarify the application of this section as soon as possible.

(c) A licensee shall adopt and adhere to policies and procedures that are reasonably intended to achieve the objectives set forth in the documents described in subdivision (a).

SEC. 8. Section 13984 is added to the Government Code, to read:

13984. In order to ensure that Section 10240.3 of the Business and Professions Code and Sections 215.5, 22171, and 50333 of the Financial Code are applied consistently to all California entities engaged in the brokering, originating, servicing, underwriting, and issuance of nontraditional mortgage products, the secretary shall ensure that the Commissioner of Real Estate, the Commissioner of Financial Institutions, and the Commissioner of Corporations coordinate their policymaking and rulemaking efforts.

SEC. 9. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CHAPTER 302

An act to amend Sections 29551, 70372, 70375, 76000, 76000.5, 76104.1, 76104.6, and 76104.7 of the Government Code, to amend Section 117560 of the Health and Safety Code, to amend Sections 530.5, 647, 977, 1170.11, 1202.4, 1202.45, 1463, 1464, 1465.8, and 1538.5 of the Penal Code, and to amend Section 6608.8 of the Welfare and Institutions Code, relating to public safety.

[Approved by Governor October 5, 2007. Filed with Secretary of State October 5, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 29551 of the Government Code is amended to read:

29551. (a) The board of supervisors or city council of any county, city and county, or city that opts to receive funds pursuant to Section 29552 shall establish a local detention facility revenue account, on behalf of the sheriff or the official responsible for local detention facilities in the county, city and county, or city, into which shall be deposited funds paid by the Controller, pursuant to Section 29552. The funds in the local detention facility revenue account shall be used exclusively for the

purpose of operation, renovation, remodeling, or constructing local detention facilities and related equipment.

(b) (1) If an appropriation for the purposes specified in Section 29552 is made in any fiscal year, a county, city and county, or city, may charge a jail access fee to a local agency that exceeds the agency's three-year average number of nonfelony bookings for crimes listed in paragraph (2) at a rate not to exceed the actual cost of booking an arrested person into the local detention facility, for each booking in excess of the three-year average. A local agency's three-year average number of nonfelony bookings for crimes listed in paragraph (2) shall be recalculated each year. The jail access fee shall be calculated and paid on a monthly basis, and all revenue derived from the jail access fee shall be deposited into the local detention facility revenue account created pursuant to subdivision (a).

(2) Bookings for violations of each of the following shall be used to determine a local agency's three-year average:

(A) Municipal code violations.

(B) Misdemeanor violations, except driving under the influence offenses and domestic violence misdemeanor offenses, including enforcement of protective orders.

(c) Cities that operate Type One facilities within a county shall be eligible to receive funds from the county's local detention facility revenue account. Cities that operate Type One facilities and charged booking fees pursuant to Section 29550.3 during the 2006–07 fiscal year shall receive funds in an amount proportional to the number of persons booked into the city's Type One facility for which the city charged fees to the arresting agency.

(d) Except as provided in subdivisions (c) to (f), inclusive, of Section 29550 and subdivisions (a) to (c), inclusive, of Section 29550.3, every year in which at least thirty-five million dollars ($35,000,000) is appropriated for the purposes of Section 29552, counties, cities and counties, and cities are prohibited from collecting fees pursuant to Sections 29550 and 29550.3 from other public entities. In any fiscal year in which the appropriation for the purposes of Section 29552 is less than thirty-five million dollars ($35,000,000), a county, city and county, or a city may collect fees pursuant to Section 29550 and Section 29550.3 up to a rate, adjusted as provided in subdivision (e), in proportion to the amount that the amount appropriated is less than thirty-five million dollars ($35,000,000).

(e) The maximum rate of the fee charged by each local agency pursuant to subdivision (d) shall be the rate charged as of June 30, 2006, pursuant to Section 29550 or 29550.3, increased for each subsequent

fiscal year by the California Consumer Price Index as reported by the Department of Finance plus 1 percent, compounded annually.

(f) This section shall become operative on July 1, 2007.

SEC. 2. Section 70372 of the Government Code is amended to read:

70372. (a) (1) Except as otherwise provided in subdivision (b) of Section 70375 and in this article, there shall be levied a state court construction penalty, in the amount of five dollars ($5) for every ten dollars ($10), or part of ten dollars ($10), upon every fine, penalty, or forfeiture imposed and collected by the courts for all criminal offenses, including, but not limited to, all offenses involving a violation of a section of the Fish and Game Code, the Health and Safety Code, or the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code. This penalty is in addition to any other state or local penalty, including, but not limited to, the penalty provided by Section 1464 of the Penal Code and Section 76000.

(2) The amount of the court construction penalty may be reduced by a county as provided in subdivision (b) of Section 70375.

(3) This construction penalty does not apply to the following:

(A) Any restitution fine.

(B) Any penalty authorized by Section 1464 of the Penal Code or Chapter 12 (commencing with Section 76000) of Title 8.

(C) Any parking offense subject to Article 3 (commencing with Section 40200) of Chapter 1 of Division 17 of the Vehicle Code.

(D) The state surcharge authorized by Section 1465.7 of the Penal Code.

(4) Any bail schedule adopted pursuant to Section 1269b of the Penal Code or adopted by the Judicial Council pursuant to Section 40310 of the Vehicle Code may include the necessary amount to pay the penalty established by this section, the penalties authorized by Section 1464 of the Penal Code and Chapter 12 (commencing with Section 76000) of Title 8, and the surcharge authorized by Section 1465.7 of the Penal Code for all matters where a personal appearance is not mandatory and the bail is posted primarily to guarantee payment of the fine. After a determination by the court of the amount due, the clerk of the court shall collect the penalty and transmit it immediately to the county treasury and the county treasurer shall transmit these sums as provided in subdivision (f).

(b) In addition to the penalty provided by subdivision (a), for every parking offense where a parking penalty, fine, or forfeiture is imposed, an added state court construction penalty of one dollar and fifty cents ($1.50) shall be included in the total penalty, fine, or forfeiture. These moneys shall be taken from fines and forfeitures deposited with the county treasurer prior to any division pursuant to Section 1462.3 or

1463.009 of the Penal Code. In those cities, districts, or other issuing agencies which elect to accept parking penalties, and otherwise process parking violations pursuant to Article 3 (commencing with Section 40200) of Chapter 1 of Division 17 of the Vehicle Code, that city, district, or issuing agency shall observe the increased bail amounts as established by the court reflecting the added penalty provided for by this section. Each agency which elects to process parking violations shall pay to the county treasurer one dollar and fifty cents ($1.50) for the parking penalty imposed by this section for each violation which is not filed in court. Those payments to the county treasurer shall be made monthly, and the county treasurer shall transmit these sums as provided in subdivision (f).

(c) Where multiple offenses are involved, the state court construction penalty shall be based upon the total fine or bail for each case. When a fine is suspended, in whole or in part, the state court construction penalty shall be reduced in proportion to the suspension.

(d) When any deposited bail is made for an offense to which this section applies, and for which a court appearance is not mandatory, the person making the deposit shall also deposit a sufficient amount to include the state court construction penalty prescribed by this section for forfeited bail. If bail is returned, the state court construction penalty paid thereon pursuant to this section shall also be returned.

(e) In any case where a person convicted of any offense, to which this section applies, is in prison until the fine is satisfied, the judge may waive all or any part of the state court construction penalty, the payment of which would work a hardship on the person convicted or his or her immediate family.

(f) Within 45 days after the end of the month that moneys are deposited in the county treasury pursuant to subdivision (a) or (b), the county treasurer shall transmit the moneys to the State Controller, to be deposited in the State Court Facilities Construction Fund.

SEC. 3. Section 70375 of the Government Code is amended to read:

70375. (a) This article shall take effect on January 1, 2003, and the fund, penalty, and fee assessment established by this article shall become operative on January 1, 2003, except as otherwise provided in this article.

(b) In each county, the five-dollar ($5) penalty amount authorized by subdivision (a) of Section 70372 shall be reduced by the following:

(1) The amount collected for deposit into the local courthouse construction fund established pursuant to Section 76100. If a county board of supervisors elects to distribute part of the county penalty authorized by Section 76000 into the local courthouse construction fund, the amount of the contribution for each seven dollars ($7) is the difference

between seven dollars ($7) and the amount shown for the county penalty in subdivision (e) of Section 76000.

(2) The amount collected for transmission to the state for inclusion in the Transitional State Court Facilities Construction Fund established pursuant to Section 70401 to the extent it is funded by money from the local courthouse construction fund.

(c) The authority for all of the following shall expire proportionally on the June 30th following the date of transfer of responsibility for facilities from the county to the Judicial Council, except so long as money is needed to pay for construction provided for in those sections and undertaken prior to the transfer of responsibility for facilities from the county to the Judicial Council:

(1) An additional penalty for a local courthouse construction fund established pursuant to Section 76100.

(2) A filing fee surcharge in the County of Riverside established pursuant to Section 70622.

(3) A filing fee surcharge in the County of San Bernardino established pursuant to Section 70624.

(4) A filing fee surcharge in the City and County of San Francisco established pursuant to Section 70625.

(d) For purposes of subdivision (c), the term "proportionally" means that proportion of the fee or surcharge that shall expire upon the transfer of responsibility for a facility that is the same proportion as the square footage that facility bears to the total square footage of court facilities in that county.

SEC. 4. Section 76000 of the Government Code is amended to read:

76000. (a) (1) Except as otherwise provided elsewhere in this section, in each county there shall be levied an additional penalty in the amount of seven dollars ($7) for every ten dollars ($10), or part of ten dollars ($10), upon every fine, penalty, or forfeiture imposed and collected by the courts for all criminal offenses, including all offenses involving a violation of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code.

(2) This additional penalty shall be collected together with and in the same manner as the amounts established by Section 1464 of the Penal Code. These moneys shall be taken from fines and forfeitures deposited with the county treasurer prior to any division pursuant to Section 1463 of the Penal Code. The county treasurer shall deposit those amounts specified by the board of supervisors by resolution in one or more of the funds established pursuant to this chapter. However, deposits to these funds shall continue through whatever period of time is necessary to repay any borrowings made by the county on or before January 1, 1991, to pay for construction provided for in this chapter.

(3) This additional penalty does not apply to the following:

(A) Any restitution fine.

(B) Any penalty authorized by Section 1464 of the Penal Code or this chapter.

(C) Any parking offense subject to Article 3 (commencing with Section 40200) of Chapter 1 of Division 17 of the Vehicle Code.

(D) The state surcharge authorized by Section 1465.7 of the Penal Code.

(b) In each authorized county, provided that the board of supervisors has adopted a resolution stating that the implementation of this subdivision is necessary to the county for the purposes authorized, with respect to each authorized fund established pursuant to Section 76100 or 76101, for every parking offense where a parking penalty, fine, or forfeiture is imposed, an added penalty of two dollars and fifty cents ($2.50) shall be included in the total penalty, fine, or forfeiture. Except as provided in subdivision (c), for each parking case collected in the courts of the county, the county treasurer shall place in each authorized fund two dollars and fifty cents ($2.50). These moneys shall be taken from fines and forfeitures deposited with the county treasurer prior to any division pursuant to Section 1462.3 or 1463.009 of the Penal Code. The judges of the county shall increase the bail schedule amounts as appropriate to reflect the added penalty provided for by this section. In those cities, districts, or other issuing agencies which elect to accept parking penalties, and otherwise process parking violations pursuant to Article 3 (commencing with Section 40200) of Chapter 1 of Division 17 of the Vehicle Code, that city, district, or issuing agency shall observe the increased bail amounts as established by the court reflecting the added penalty provided for by this section. Each agency which elects to process parking violations shall pay to the county treasurer two dollars and fifty cents ($2.50) for each fund for each parking penalty collected on each violation which is not filed in court. Those payments to the county treasurer shall be made monthly, and the county treasurer shall deposit all those sums in the authorized fund. No issuing agency shall be required to contribute revenues to any fund in excess of those revenues generated from the surcharges established in the resolution adopted pursuant to this chapter, except as otherwise agreed upon by the local governmental entities involved.

(c) The county treasurer shall deposit one dollar ($1) of every two dollars and fifty cents ($2.50) collected pursuant to subdivision (b) into the general fund of the county.

(d) The authority to impose the two-dollar-and-fifty-cent ($2.50) penalty authorized by subdivision (b) shall be reduced to one dollar ($1.00) as of the date of transfer of responsibility for facilities from the

county to the Judicial Council pursuant to Article 3 (commencing with Section 70321) of Chapter 5.1, except as money is needed to pay for construction provided for in Section 76100 and undertaken prior to the transfer of responsibility for facilities from the county to the Judicial Council.

(e) The seven-dollar ($7) additional penalty authorized by subdivision (a) shall be reduced in each county by the additional penalty amount assessed by the county for the local courthouse construction fund established by Section 76100 as of January 1, 1998, when the money in that fund is transferred to the state under Section 70402. The amount each county shall charge as an additional penalty under this section shall be as follows:

Alameda	$5.00	Marin	$5.00	San Luis Obispo	$6.00
Alpine	$5.00	Mariposa	$2.00	San Mateo	$4.75
Amador	$5.00	Mendocino	$7.00	Santa Barbara	$3.50
Butte	$6.00	Merced	$5.00	Santa Clara	$5.50
Calaveras	$3.00	Modoc	$4.00	Santa Cruz	$7.00
Colusa	$6.00	Mono	$5.00	Shasta	$3.50
Contra Costa	$5.00	Monterey	$5.00	Sierra	$7.00
Del Norte	$5.00	Napa	$3.00	Siskiyou	$5.00
El Dorado	$5.00	Nevada	$5.00	Solano	$5.00
Fresno	$7.00	Orange	$3.50	Sonoma	$5.00
Glenn	$4.06	Placer	$4.75	Stanislaus	$5.00
Humboldt	$5.00	Plumas	$5.00	Sutter	$3.00
Imperial	$6.00	Riverside	$4.60	Tehama	$7.00
Inyo	$4.00	Sacramento	$5.00	Trinity	$4.26
Kern	$7.00	San Benito	$5.00	Tulare	$5.00
Kings	$7.00	San Bernardino	$5.00	Tuolumne	$5.00
Lake	$7.00	San Diego	$5.00	Ventura	$5.00
Lassen	$2.00	San Francisco	$6.99	Yolo	$7.00
Los Angeles	$5.00	San Joaquin	$3.75	Yuba	$3.00
Madera	$4.50				

SEC. 5. Section 76000.5 of the Government Code is amended to read:

76000.5. (a) (1) Except as otherwise provided elsewhere in this section, for purposes of supporting emergency medical services pursuant to Chapter 2.5 (commencing with Section 1797.98a) of Division 2.5 of the Health and Safety Code, in addition to the penalties set forth in Section 76000, the county board of supervisors may elect to levy an additional penalty in the amount of two dollars ($2) for every ten dollars

($10), or part of ten dollars ($10), upon every fine, penalty, or forfeiture imposed and collected by the courts for all criminal offenses, including violations of Division 9 (commencing with Section 23000) of the Business and Professions Code relating to the control of alcoholic beverages, and all offenses involving a violation of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code. This penalty shall be collected together with and in the same manner as the amounts established by Section 1464 of the Penal Code.

(2) This additional penalty does not apply to the following:

(A) Any restitution fine.

(B) Any penalty authorized by Section 1464 of the Penal Code or this chapter.

(C) Parking offenses subject to Article 3 (commencing with Section 40200) of Chapter 1 of Division 17 of the Vehicle Code.

(D) The state surcharge authorized by Section 1465.7 of the Penal Code.

(b) Funds shall be collected pursuant to subdivision (a) only if the county board of supervisors provides that the increased penalties do not offset or reduce the funding of other programs from other sources, but that these additional revenues result in increased funding to those programs.

(c) Money collected pursuant to subdivision (a) shall be taken from fines and forfeitures deposited with the county treasurer prior to any division pursuant to Section 1463 of the Penal Code.

(d) Funds collected pursuant to this section shall be deposited into the Maddy Emergency Medical Services (EMS) Fund established pursuant to Section 1797.98a of the Health and Safety Code.

(e) This section shall remain in effect only until January 1, 2009, and as of that date is repealed, unless a later enacted statute, that is chaptered before January 1, 2009, deletes or extends that date.

SEC. 6. Section 76104.1 of the Government Code is amended to read:

76104.1. (a) (1) Except as otherwise provided in this section, and notwithstanding any other provision of law, for purposes of supporting emergency medical services pursuant to Chapter 2.5 (commencing with Section 1797.98a) of Division 2.5 of the Health and Safety Code, in Santa Barbara County, a penalty in the amount of five dollars ($5.00) for every ten dollars ($10.00), or part of ten dollars ($10), shall be imposed on every fine, penalty, or forfeiture collected for all criminal offenses, including all offenses involving a violation of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code. This penalty assessment shall be collected together with and in the same manner as the amount established by Section 1464 of the Penal Code.

(2) The penalty imposed by this section does not apply to the following:

(A) Any restitution fine.

(B) Any penalty authorized by Section 1464 of the Penal Code or this chapter.

(C) Any parking offense subject to Article 3 (commencing with Section 40200) of Chapter 1 of Division 17 of the Vehicle Code.

(D) The state surcharge authorized by Section 1465.7 of the Penal Code.

(b) Notwithstanding any other provision of law, for the purposes of supporting emergency medical services pursuant to Chapter 2.5 (commencing with Section 1797.98a) of Division 2.5 of the Health and Safety Code, in Santa Barbara County, for every parking offense, as defined in subdivision (i) of Section 1463 of the Penal Code, where a parking penalty, fine, or forfeiture is imposed, an added penalty of two dollars and fifty cents ($2.50) shall be included in the total penalty, fine, or forfeiture, together with and in the same manner as the amount established pursuant to subdivision (b) of Section 76000.

(c) The moneys collected pursuant to this section shall be held by the county treasurer in the same manner, and shall be payable for the same purposes, described in subdivision (e) of Section 76104.

(d) (1) Notwithstanding any provision of law to the contrary, in the County of Santa Barbara, the distribution set forth in subparagraph (B) of paragraph (5) of subdivision (b) of Section 1797.98a shall, instead, be 42 percent of the fund to hospitals providing disproportionate trauma and emergency medical services to uninsured patients who do not make any payment for services.

(2) Notwithstanding any provision of law to the contrary, in the County of Santa Barbara, the 17 percent distribution set forth in subparagraph (C) of paragraph (5) of subdivision (b) of Section 1797.98a shall not apply.

(e) This section shall be implemented only if the Santa Barbara County Board of Supervisors adopts a resolution stating that implementation of this section is necessary to the county for purposes of providing payment for emergency medical services.

(f) This section shall remain in effect only until January 1, 2009, and as of that date is repealed.

SEC. 7. Section 76104.6 of the Government Code is amended to read:

76104.6. (a) (1) Except as otherwise provided in this section, for the purpose of implementing the DNA Fingerprint, Unsolved Crime and Innocence Protection Act, there shall be levied an additional penalty of one dollar for every ten dollars ($10), or part of ten dollars ($10), in each

county upon every fine, penalty, or forfeiture imposed and collected by the courts for all criminal offenses, including all offenses involving a violation of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code.

(2) The penalty imposed by this section shall be collected together with and in the same manner as the amounts established by Section 1464 of the Penal Code. These moneys shall be taken from fines and forfeitures deposited with the county treasurer prior to any division pursuant to Section 1463 of the Penal Code. The board of supervisors shall establish in the county treasury a DNA Identification Fund into which shall be deposited the collected moneys pursuant to this section. The moneys of the fund shall be allocated pursuant to subdivision (b).

(3) This additional penalty does not apply to the following:

(A) Any restitution fine.

(B) Any penalty authorized by Section 1464 of the Penal Code or this chapter.

(C) Any parking offense subject to Article 3 (commencing with Section 40200) of Chapter 1 of Division 17 of the Vehicle Code.

(D) The state surcharge authorized by Section 1465.7 of the Penal Code.

(b) (1) The fund moneys described in subdivision (a), together with any interest earned thereon, shall be held by the county treasurer separate from any funds subject to transfer or division pursuant to Section 1463 of the Penal Code. Deposits to the fund may continue through and including the 20th year after the initial calendar year in which the surcharge is collected, or longer if and as necessary to make payments upon any lease or leaseback arrangement utilized to finance any of the projects specified herein.

(2) On the last day of each calendar quarter of the year specified in this subdivision, the county treasurer shall transfer fund moneys in the county's DNA Identification Fund to the state Controller for credit to the state's DNA Identification Fund, which is hereby established in the State Treasury, as follows:

(A) in the first two calendar years following the effective date of this section, 70 percent of the amounts collected, including interest earned thereon;

(B) in the third calendar year following the effective date of this section, 50 percent of the amounts collected, including interest earned thereon;

(C) in the fourth calendar year following the effective date of this section and in each calendar year thereafter, 25 percent of the amounts collected, including interest earned thereon.

(3) Funds remaining in the county's DNA Identification Fund shall be used only to reimburse local sheriff or other law enforcement agencies to collect DNA specimens, samples, and print impressions pursuant to this chapter; for expenditures and administrative costs made or incurred to comply with the requirements of paragraph (5) of subdivision (b) of Section 298 including the procurement of equipment and software integral to confirming that a person qualifies for entry into the Department of Justice DNA Database and Data Bank Program; and to local sheriff, police, district attorney, and regional state crime laboratories for expenditures and administrative costs made or incurred in connection with the processing, analysis, tracking, and storage of DNA crime scene samples from cases in which DNA evidence would be useful in identifying or prosecuting suspects, including the procurement of equipment and software for the processing, analysis, tracking, and storage of DNA crime scene samples from unsolved cases.

(4) The state's DNA Identification Fund shall be administered by the Department of Justice. Funds in the state's DNA Identification Fund, upon appropriation by the Legislature, shall be used by the Attorney General only to support DNA testing in the state and to offset the impacts of increased testing and shall be allocated as follows:

(A) Of the amount transferred pursuant to subparagraph (A) of paragraph (2) of subdivision (b), 90 percent to the Department of Justice DNA Laboratory, first, to comply with the requirements of Section 298.3 of the Penal Code and, second, for expenditures and administrative costs made or incurred in connection with the processing, analysis, tracking, and storage of DNA specimens and samples including the procurement of equipment and software for the processing, analysis, tracking, and storage of DNA samples and specimens obtained pursuant to the DNA and Forensic Identification Database and Databank Act, as amended, and 10 percent to the Department of Justice Information Bureau Criminal History Unit for expenditures and administrative costs that have been approved by the Chief of the Department of Justice Bureau of Forensic Services made or incurred to update equipment and software to facilitate compliance with the requirements of subdivision (e) of Section 299.5 of the Penal Code.

(B) Of the amount transferred pursuant to subparagraph (B) of paragraph (2) of subdivision (b), funds shall be allocated by the Department of Justice DNA Laboratory, first, to comply with the requirements of Section 298.3 of the Penal Code and, second, for expenditures and administrative costs made or incurred in connection with the processing, analysis, tracking, and storage of DNA specimens and samples including the procurement of equipment and software for the processing, analysis, tracking, and storage of DNA samples and

specimens obtained pursuant to the DNA and Forensic Identification Database and Databank Act, as amended.

(C) Of the amount transferred pursuant to subparagraph (C) of paragraph (2) of subdivision (b), funds shall be allocated by the Department of Justice to the DNA Laboratory to comply with the requirements of Section 298.3 of the Penal Code and for expenditures and administrative costs made or incurred in connection with the processing, analysis, tracking, and storage of DNA specimens and samples including the procurement of equipment and software for the processing, analysis, tracking, and storage of DNA samples and specimens obtained pursuant to the DNA and Forensic Identification Database and Databank Act, as amended.

(c) On or before April 1 in the year following adoption of this section, and annually thereafter, the board of supervisors of each county shall submit a report to the Legislature and the Department of Justice. The report shall include the total amount of fines collected and allocated pursuant to this section, and the amounts expended by the county for each program authorized pursuant to paragraph (3) of subdivision (b) of this section. The Department of Justice shall make the reports publicly available on the department's Web site.

(d) All requirements imposed on the Department of Justice pursuant to the DNA Fingerprint, Unsolved Crime and Innocence Protection Act are contingent upon the availability of funding and are limited by revenue, on a fiscal year basis, received by the Department of Justice pursuant to this section and any additional appropriation approved by the Legislature for purposes related to implementing this measure.

(e) Upon approval of the DNA Fingerprint, Unsolved Crime and Innocence Protection Act, the Legislature shall loan the Department of Justice General Fund in the amount of $7,000,000 for purposes of implementing that act. This loan shall be repaid with interest calculated at the rate earned by the Pooled Money Investment Account at the time the loan is made. Principal and interest on the loan shall be repaid in full no later than four years from the date the loan was made and shall be repaid from revenue generated pursuant to this section.

SEC. 8. Section 76104.7 of the Government Code is amended to read:

76104.7. (a) Except as otherwise provided in this section, in addition to the penalty levied pursuant to Section 76104.6, there shall be levied an additional state-only penalty of one dollar ($1) for every ten dollars ($10), or part of ten dollars ($10), in each county upon every fine, penalty, or forfeiture imposed and collected by the courts for all criminal offenses, including all offenses involving a violation of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code.

(b) This additional penalty shall be collected together with and in the same manner as the amounts established by Section 1464 of the Penal Code. These moneys shall be taken from fines and forfeitures deposited with the county treasurer prior to any division pursuant to Section 1463 of the Penal Code. These funds shall be deposited into the county treasury DNA Identification Fund. One hundred percent of these funds, including any interest earned thereon, shall be transferred to the state Controller at the same time that moneys are transferred pursuant to paragraph (2) of subdivision (b) of Section 76104.6, for deposit into the state's DNA Identification Fund. These funds may be used to fund the operation of the DNA Fingerprint, Unsolved Crime and Innocence Protection Act, and to facilitate compliance with the requirements of subdivision (e) of Section 299.5 of the Penal Code.

(c) This additional penalty does not apply to the following:

(1) Any restitution fine.

(2) Any penalty authorized by Section 1464 of the Penal Code or this chapter.

(3) Any parking offense subject to Article 3 (commencing with Section 40200) of Chapter 1 of Division 17 of the Vehicle Code.

(4) The state surcharge authorized by Section 1465.7 of the Penal Code.

SEC. 9. Section 117560 of the Health and Safety Code is amended to read:

117560. A state fish and game warden, police officer of a city, sheriff, deputy of a sheriff, person described in subdivision (j) of Section 830.7 of the Penal Code, and any other peace officer of the State of California, within his or her respective jurisdiction, shall enforce this article.

SEC. 10. Section 530.5 of the Penal Code is amended to read:

530.5. (a) Every person who willfully obtains personal identifying information, as defined in subdivision (b) of Section 530.55, of another person, and uses that information for any unlawful purpose, including to obtain, or attempt to obtain, credit, goods, services, real property, or medical information without the consent of that person, is guilty of a public offense, and upon conviction therefor, shall be punished by a fine, by imprisonment in a county jail not to exceed one year, or by both a fine and imprisonment, or by imprisonment in the state prison.

(b) In any case in which a person willfully obtains personal identifying information of another person, uses that information to commit a crime in addition to a violation of subdivision (a), and is convicted of that crime, the court records shall reflect that the person whose identity was falsely used to commit the crime did not commit the crime.

(c) (1) Every person who, with the intent to defraud, acquires or retains possession of the personal identifying information, as defined in

subdivision (b) of Section 530.55, of another person is guilty of a public offense, and upon conviction therefor, shall be punished by a fine, by imprisonment in a county jail not to exceed one year, or by both a fine and imprisonment.

(2) Every person who, with the intent to defraud, acquires or retains possession of the personal identifying information, as defined in subdivision (b) of Section 530.55, of another person, and who has previously been convicted of a violation of this section, upon conviction therefor shall be punished by a fine, by imprisonment in a county jail not to exceed one year, or by both a fine and imprisonment, or by imprisonment in the state prison.

(3) Every person who, with the intent to defraud, acquires or retains possession of the personal identifying information, as defined in subdivision (b) of Section 530.55, of 10 or more other persons is guilty of a public offense, and upon conviction therefor, shall be punished by a fine, by imprisonment in a county jail not to exceed one year, or by both a fine and imprisonment, or by imprisonment in the state prison.

(d) (1) Every person who, with the intent to defraud, sells, transfers, or conveys the personal identifying information, as defined in subdivision (b) of Section 530.55, of another person is guilty of a public offense, and upon conviction therefor, shall be punished by a fine, by imprisonment in a county jail not to exceed one year, or by both a fine and imprisonment, or by imprisonment in the state prison.

(2) Every person who, with actual knowledge that the personal identifying information, as defined in subdivision (b) of Section 530.55, of a specific person will be used to commit a violation of subdivision (a), sells, transfers, or conveys that same personal identifying information is guilty of a public offense, and upon conviction therefor, shall be punished by a fine, by imprisonment in the state prison, or by both a fine and imprisonment.

(e) Every person who commits mail theft, as defined in Section 1708 of Title 18 of the United States Code, is guilty of a public offense, and upon conviction therefor shall be punished by a fine, by imprisonment in a county jail not to exceed one year, or by both a fine and imprisonment. Prosecution under this subdivision shall not limit or preclude prosecution under any other provision of law, including, but not limited to, subdivisions (a) to (c), inclusive, of this section.

(f) An interactive computer service or access software provider, as defined in subsection (f) of Section 230 of Title 47 of the United States Code, shall not be liable under this section unless the service or provider acquires, transfers, sells, conveys, or retains possession of personal information with the intent to defraud.

SEC. 11. Section 647 of the Penal Code is amended to read:

647. Every person who commits any of the following acts is guilty of disorderly conduct, a misdemeanor:

(a) Who solicits anyone to engage in or who engages in lewd or dissolute conduct in any public place or in any place open to the public or exposed to public view.

(b) Who solicits or who agrees to engage in or who engages in any act of prostitution. A person agrees to engage in an act of prostitution when, with specific intent to so engage, he or she manifests an acceptance of an offer or solicitation to so engage, regardless of whether the offer or solicitation was made by a person who also possessed the specific intent to engage in prostitution. No agreement to engage in an act of prostitution shall constitute a violation of this subdivision unless some act, in addition to the agreement, is done within this state in furtherance of the commission of an act of prostitution by the person agreeing to engage in that act. As used in this subdivision, "prostitution" includes any lewd act between persons for money or other consideration.

(c) Who accosts other persons in any public place or in any place open to the public for the purpose of begging or soliciting alms.

(d) Who loiters in or about any toilet open to the public for the purpose of engaging in or soliciting any lewd or lascivious or any unlawful act.

(e) Who lodges in any building, structure, vehicle, or place, whether public or private, without the permission of the owner or person entitled to the possession or in control of it.

(f) Who is found in any public place under the influence of intoxicating liquor, any drug, controlled substance, toluene, or any combination of any intoxicating liquor, drug, controlled substance, or toluene, in a condition that he or she is unable to exercise care for his or her own safety or the safety of others, or by reason of his or her being under the influence of intoxicating liquor, any drug, controlled substance, toluene, or any combination of any intoxicating liquor, drug, or toluene, interferes with or obstructs or prevents the free use of any street, sidewalk, or other public way.

(g) When a person has violated subdivision (f), a peace officer, if he or she is reasonably able to do so, shall place the person, or cause him or her to be placed, in civil protective custody. The person shall be taken to a facility, designated pursuant to Section 5170 of the Welfare and Institutions Code, for the 72-hour treatment and evaluation of inebriates. A peace officer may place a person in civil protective custody with that kind and degree of force which would be lawful were he or she effecting an arrest for a misdemeanor without a warrant. No person who has been placed in civil protective custody shall thereafter be subject to any criminal prosecution or juvenile court proceeding based on the facts

giving rise to this placement. This subdivision shall not apply to the following persons:

(1) Any person who is under the influence of any drug, or under the combined influence of intoxicating liquor and any drug.

(2) Any person who a peace officer has probable cause to believe has committed any felony, or who has committed any misdemeanor in addition to subdivision (f).

(3) Any person who a peace officer in good faith believes will attempt escape or will be unreasonably difficult for medical personnel to control.

(h) Who loiters, prowls, or wanders upon the private property of another, at any time, without visible or lawful business with the owner or occupant. As used in this subdivision, "loiter" means to delay or linger without a lawful purpose for being on the property and for the purpose of committing a crime as opportunity may be discovered.

(i) Who, while loitering, prowling, or wandering upon the private property of another, at any time, peeks in the door or window of any inhabited building or structure, without visible or lawful business with the owner or occupant.

(j) (1) Any person who looks through a hole or opening, into, or otherwise views, by means of any instrumentality, including, but not limited to, a periscope, telescope, binoculars, camera, motion picture camera, or camcorder, the interior of a bedroom, bathroom, changing room, fitting room, dressing room, or tanning booth, or the interior of any other area in which the occupant has a reasonable expectation of privacy, with the intent to invade the privacy of a person or persons inside. This subdivision shall not apply to those areas of a private business used to count currency or other negotiable instruments.

(2) Any person who uses a concealed camcorder, motion picture camera, or photographic camera of any type, to secretly videotape, film, photograph, or record by electronic means, another, identifiable person under or through the clothing being worn by that other person, for the purpose of viewing the body of, or the undergarments worn by, that other person, without the consent or knowledge of that other person, with the intent to arouse, appeal to, or gratify the lust, passions, or sexual desires of that person and invade the privacy of that other person, under circumstances in which the other person has a reasonable expectation of privacy.

(3) (A) Any person who uses a concealed camcorder, motion picture camera, or photographic camera of any type, to secretly videotape, film, photograph, or record by electronic means, another, identifiable person who may be in a state of full or partial undress, for the purpose of viewing the body of, or the undergarments worn by, that other person, without the consent or knowledge of that other person, in the interior of a

bedroom, bathroom, changing room, fitting room, dressing room, or tanning booth, or the interior of any other area in which that other person has a reasonable expectation of privacy, with the intent to invade the privacy of that other person.

(B) Neither of the following is a defense to the crime specified in this paragraph:

(i) The defendant was a cohabitant, landlord, tenant, cotenant, employer, employee, or business partner or associate of the victim, or an agent of any of these.

(ii) The victim was not in a state of full or partial undress.

(k) In any accusatory pleading charging a violation of subdivision (b), if the defendant has been once previously convicted of a violation of that subdivision, the previous conviction shall be charged in the accusatory pleading. If the previous conviction is found to be true by the jury, upon a jury trial, or by the court, upon a court trial, or is admitted by the defendant, the defendant shall be imprisoned in a county jail for a period of not less than 45 days and shall not be eligible for release upon completion of sentence, on probation, on parole, on work furlough or work release, or on any other basis until he or she has served a period of not less than 45 days in a county jail. In all cases in which probation is granted, the court shall require as a condition thereof that the person be confined in a county jail for at least 45 days. In no event does the court have the power to absolve a person who violates this subdivision from the obligation of spending at least 45 days in confinement in a county jail.

In any accusatory pleading charging a violation of subdivision (b), if the defendant has been previously convicted two or more times of a violation of that subdivision, each of these previous convictions shall be charged in the accusatory pleading. If two or more of these previous convictions are found to be true by the jury, upon a jury trial, or by the court, upon a court trial, or are admitted by the defendant, the defendant shall be imprisoned in a county jail for a period of not less than 90 days and shall not be eligible for release upon completion of sentence, on probation, on parole, on work furlough or work release, or on any other basis until he or she has served a period of not less than 90 days in a county jail. In all cases in which probation is granted, the court shall require as a condition thereof that the person be confined in a county jail for at least 90 days. In no event does the court have the power to absolve a person who violates this subdivision from the obligation of spending at least 90 days in confinement in a county jail.

In addition to any punishment prescribed by this section, a court may suspend, for not more than 30 days, the privilege of the person to operate a motor vehicle pursuant to Section 13201.5 of the Vehicle Code for any

violation of subdivision (b) that was committed within 1,000 feet of a private residence and with the use of a vehicle. In lieu of the suspension, the court may order a person's privilege to operate a motor vehicle restricted, for not more than six months, to necessary travel to and from the person's place of employment or education. If driving a motor vehicle is necessary to perform the duties of the person's employment, the court may also allow the person to drive in that person's scope of employment.

SEC. 12. Section 977 of the Penal Code is amended to read:

977. (a) (1) In all cases in which the accused is charged with a misdemeanor only, he or she may appear by counsel only, except as provided in paragraphs (2) and (3). If the accused agrees, the initial court appearance, arraignment, and plea may be by video, as provided by subdivision (c).

(2) If the accused is charged with a misdemeanor offense involving domestic violence, as defined in Section 6211 of the Family Code, or a misdemeanor violation of Section 273.6, the accused shall be present for arraignment and sentencing, and at any time during the proceedings when ordered by the court for the purpose of being informed of the conditions of a protective order issued pursuant to Section 136.2.

(3) If the accused is charged with a misdemeanor offense involving driving under the influence, in an appropriate case, the court may order a defendant to be present for arraignment, at the time of plea, or at sentencing. For purposes of this paragraph, a misdemeanor offense involving driving under the influence shall include a misdemeanor violation of any of the following:

(A) Subdivision (b) of Section 191.5.

(B) Section 23103 as specified in Section 23103.5 of the Vehicle Code.

(C) Section 23152 of the Vehicle Code.

(D) Section 23153 of the Vehicle Code.

(b) (1) In all cases in which a felony is charged, the accused shall be present at the arraignment, at the time of plea, during the preliminary hearing, during those portions of the trial when evidence is taken before the trier of fact, and at the time of the imposition of sentence. The accused shall be personally present at all other proceedings unless he or she shall, with leave of court, execute in open court, a written waiver of his or her right to be personally present, as provided by paragraph (2). If the accused agrees, the initial court appearance, arraignment, and plea may be by video, as provided by subdivision (c).

(2) The accused may execute a written waiver of his or her right to be personally present, approved by his or her counsel, and the waiver shall be filed with the court. However, the court may specifically direct

the defendant to be personally present at any particular proceeding or portion thereof. The waiver shall be substantially in the following form:

"Waiver of Defendant's Personal Presence"

"The undersigned defendant, having been advised of his or her right to be present at all stages of the proceedings, including, but not limited to, presentation of and arguments on questions of fact and law, and to be confronted by and cross-examine all witnesses, hereby waives the right to be present at the hearing of any motion or other proceeding in this cause. The undersigned defendant hereby requests the court to proceed during every absence of the defendant that the court may permit pursuant to this waiver, and hereby agrees that his or her interest is represented at all times by the presence of his or her attorney the same as if the defendant were personally present in court, and further agrees that notice to his or her attorney that his or her presence in court on a particular day at a particular time is required is notice to the defendant of the requirement of his or her appearance at that time and place."

(c) The court may permit the initial court appearance and arraignment in superior court of defendants held in any state, county, or local facility within the county on felony or misdemeanor charges, except for those defendants who were indicted by a grand jury, to be conducted by two-way electronic audiovideo communication between the defendant and the courtroom in lieu of the physical presence of the defendant in the courtroom. If the defendant is represented by counsel, the attorney shall be present with the defendant at the initial court appearance and arraignment, and may enter a plea during the arraignment. However, if the defendant is represented by counsel at an initial hearing in superior court in a felony case, and if the defendant does not plead guilty or nolo contendere to any charge, the attorney shall be present with the defendant or if the attorney is not present with the defendant, the attorney shall be present in court during the hearing. The defendant shall have the right to make his or her plea while physically present in the courtroom if he or she so requests. If the defendant decides not to exercise the right to be physically present in the courtroom, he or she shall execute a written waiver of that right. A judge may order a defendant's personal appearance in court for the initial court appearance and arraignment. In a misdemeanor case, a judge may, pursuant to this subdivision, accept a plea of guilty or no contest from a defendant who is not physically in the courtroom. In a felony case, a judge may, pursuant to this subdivision, accept a plea of guilty or no contest from a defendant who is not physically in the courtroom if the parties stipulate thereto.

(d) Notwithstanding subdivision (c), if the defendant is represented by counsel, the attorney shall be present with the defendant in any county exceeding 4,000,000 persons in population.

SEC. 13. Section 1170.11 of the Penal Code is amended to read:

1170.11. As used in Section 1170.1, the term "specific enhancement" means an enhancement that relates to the circumstances of the crime. It includes, but is not limited to, the enhancements provided in Sections 186.10, 186.11, 186.22, 186.26, 186.33, 273.4, 289.5, 290.4, 290.45, 290.46, 347, and 368, subdivisions (a) and (b) of Section 422.75, paragraphs (2), (3), (4), and (5) of subdivision (a) of Section 451.1, paragraphs (2), (3), and (4) of subdivision (a) of Section 452.1, subdivision (g) of Section 550, Sections 593a, 600, 667.8, 667.85, 667.9, 667.10, 667.15, 667.16, 667.17, 674, 675, 12021.5, 12022, 12022.2, 12022.3, 12022.4, 12022.5, 12022.53, 12022.55, 12022.6, 12022.7, 12022.75, 12022.8, 12022.85, 12022.9, 12022.95, 12072, and 12280 of this code, and in Sections 1522.01 and 11353.1, subdivision (b) of Section 11353.4, Sections 11353.6, 11356.5, 11370.4, 11379.7, 11379.8, 11379.9, 11380.1, 11380.7, 25189.5, and 25189.7 of the Health and Safety Code, and in Sections 20001 and 23558 of the Vehicle Code, and in Sections 10980 and 14107 of the Welfare and Institutions Code.

SEC. 14. Section 1202.4 of the Penal Code is amended to read:

1202.4. (a) (1) It is the intent of the Legislature that a victim of crime who incurs any economic loss as a result of the commission of a crime shall receive restitution directly from any defendant convicted of that crime.

(2) Upon a person being convicted of any crime in the State of California, the court shall order the defendant to pay a fine in the form of a penalty assessment in accordance with Section 1464.

(3) The court, in addition to any other penalty provided or imposed under the law, shall order the defendant to pay both of the following:

(A) A restitution fine in accordance with subdivision (b).

(B) Restitution to the victim or victims, if any, in accordance with subdivision (f), which shall be enforceable as if the order were a civil judgment.

(b) In every case where a person is convicted of a crime, the court shall impose a separate and additional restitution fine, unless it finds compelling and extraordinary reasons for not doing so, and states those reasons on the record.

(1) The restitution fine shall be set at the discretion of the court and commensurate with the seriousness of the offense, but shall not be less than two hundred dollars ($200), and not more than ten thousand dollars ($10,000), if the person is convicted of a felony, and shall not be less

than one hundred dollars ($100), and not more than one thousand dollars ($1,000), if the person is convicted of a misdemeanor.

(2) In setting a felony restitution fine, the court may determine the amount of the fine as the product of two hundred dollars ($200) multiplied by the number of years of imprisonment the defendant is ordered to serve, multiplied by the number of felony counts of which the defendant is convicted.

(c) The court shall impose the restitution fine unless it finds compelling and extraordinary reasons for not doing so, and states those reasons on the record. A defendant's inability to pay shall not be considered a compelling and extraordinary reason not to impose a restitution fine. Inability to pay may be considered only in increasing the amount of the restitution fine in excess of the two hundred-dollar ($200) or one hundred-dollar ($100) minimum. The court may specify that funds confiscated at the time of the defendant's arrest, except for funds confiscated pursuant to Section 11469 of the Health and Safety Code, be applied to the restitution fine if the funds are not exempt for spousal or child support or subject to any other legal exemption.

(d) In setting the amount of the fine pursuant to subdivision (b) in excess of the two hundred-dollar ($200) or one hundred-dollar ($100) minimum, the court shall consider any relevant factors including, but not limited to, the defendant's inability to pay, the seriousness and gravity of the offense and the circumstances of its commission, any economic gain derived by the defendant as a result of the crime, the extent to which any other person suffered any losses as a result of the crime, and the number of victims involved in the crime. Those losses may include pecuniary losses to the victim or his or her dependents as well as intangible losses, such as psychological harm caused by the crime. Consideration of a defendant's inability to pay may include his or her future earning capacity. A defendant shall bear the burden of demonstrating his or her inability to pay. Express findings by the court as to the factors bearing on the amount of the fine shall not be required. A separate hearing for the fine shall not be required.

(e) The restitution fine shall not be subject to penalty assessments authorized in Section 1464 or Chapter 12 (commencing with Section 76000) of Title 8 of the Government Code, or the state surcharge authorized in Section 1465.7, and shall be deposited in the Restitution Fund in the State Treasury.

(f) Except as provided in subdivision (q), in every case in which a victim has suffered economic loss as a result of the defendant's conduct, the court shall require that the defendant make restitution to the victim or victims in an amount established by court order, based on the amount of loss claimed by the victim or victims or any other showing to the

court. If the amount of loss cannot be ascertained at the time of sentencing, the restitution order shall include a provision that the amount shall be determined at the direction of the court. The court shall order full restitution unless it finds compelling and extraordinary reasons for not doing so, and states them on the record. The court may specify that funds confiscated at the time of the defendant's arrest, except for funds confiscated pursuant to Section 11469 of the Health and Safety Code, be applied to the restitution order if the funds are not exempt for spousal or child support or subject to any other legal exemption.

(1) The defendant has the right to a hearing before a judge to dispute the determination of the amount of restitution. The court may modify the amount, on its own motion or on the motion of the district attorney, the victim or victims, or the defendant. If a motion is made for modification of a restitution order, the victim shall be notified of that motion at least 10 days prior to the proceeding held to decide the motion.

(2) Determination of the amount of restitution ordered pursuant to this subdivision shall not be affected by the indemnification or subrogation rights of any third party. Restitution ordered pursuant to this subdivision shall be ordered to be deposited to the Restitution Fund to the extent that the victim, as defined in subdivision (k), has received assistance from the Victim Compensation Program pursuant to Chapter 5 (commencing with Section 13950) of Part 4 of Division 3 of Title 2 of the Government Code.

(3) To the extent possible, the restitution order shall be prepared by the sentencing court, shall identify each victim and each loss to which it pertains, and shall be of a dollar amount that is sufficient to fully reimburse the victim or victims for every determined economic loss incurred as the result of the defendant's criminal conduct, including, but not limited to, all of the following:

(A) Full or partial payment for the value of stolen or damaged property. The value of stolen or damaged property shall be the replacement cost of like property, or the actual cost of repairing the property when repair is possible.

(B) Medical expenses.

(C) Mental health counseling expenses.

(D) Wages or profits lost due to injury incurred by the victim, and if the victim is a minor, wages or profits lost by the minor's parent, parents, guardian, or guardians, while caring for the injured minor. Lost wages shall include any commission income as well as any base wages. Commission income shall be established by evidence of commission income during the 12-month period prior to the date of the crime for which restitution is being ordered, unless good cause for a shorter time period is shown.

(E) Wages or profits lost by the victim, and if the victim is a minor, wages or profits lost by the minor's parent, parents, guardian, or guardians, due to time spent as a witness or in assisting the police or prosecution. Lost wages shall include any commission income as well as any base wages. Commission income shall be established by evidence of commission income during the 12-month period prior to the date of the crime for which restitution is being ordered, unless good cause for a shorter time period is shown.

(F) Noneconomic losses, including, but not limited to, psychological harm, for felony violations of Section 288.

(G) Interest, at the rate of 10 percent per annum, that accrues as of the date of sentencing or loss, as determined by the court.

(H) Actual and reasonable attorney's fees and other costs of collection accrued by a private entity on behalf of the victim.

(I) Expenses incurred by an adult victim in relocating away from the defendant, including, but not limited to, deposits for utilities and telephone service, deposits for rental housing, temporary lodging and food expenses, clothing, and personal items. Expenses incurred pursuant to this section shall be verified by law enforcement to be necessary for the personal safety of the victim or by a mental health treatment provider to be necessary for the emotional well-being of the victim.

(J) Expenses to install or increase residential security incurred related to a crime, as defined in subdivision (c) of Section 667.5, including, but not limited to, a home security device or system, or replacing or increasing the number of locks.

(K) Expenses to retrofit a residence or vehicle, or both, to make the residence accessible to or the vehicle operational by the victim, if the victim is permanently disabled, whether the disability is partial or total, as a direct result of the crime.

(4) (A) If, as a result of the defendant's conduct, the Restitution Fund has provided assistance to or on behalf of a victim or derivative victim pursuant to Chapter 5 (commencing with Section 13950) of Part 4 of Division 3 of Title 2 of the Government Code, the amount of assistance provided shall be presumed to be a direct result of the defendant's criminal conduct and shall be included in the amount of the restitution ordered.

(B) The amount of assistance provided by the Restitution Fund shall be established by copies of bills submitted to the California Victim Compensation and Government Claims Board reflecting the amount paid by the board and whether the services for which payment was made were for medical or dental expenses, funeral or burial expenses, mental health counseling, wage or support losses, or rehabilitation. Certified copies of these bills provided by the board and redacted to protect the

privacy and safety of the victim or any legal privilege, together with a statement made under penalty of perjury by the custodian of records that those bills were submitted to and were paid by the board, shall be sufficient to meet this requirement.

(C) If the defendant offers evidence to rebut the presumption established by this paragraph, the court may release additional information contained in the records of the board to the defendant only after reviewing that information in camera and finding that the information is necessary for the defendant to dispute the amount of the restitution order.

(5) Except as provided in paragraph (6), in any case in which an order may be entered pursuant to this subdivision, the defendant shall prepare and file a disclosure identifying all assets, income, and liabilities in which the defendant held or controlled a present or future interest as of the date of the defendant's arrest for the crime for which restitution may be ordered. The financial disclosure statements shall be made available to the victim and the board pursuant to Section 1214. The disclosure shall be signed by the defendant upon a form approved or adopted by the Judicial Council for the purpose of facilitating the disclosure. Any defendant who willfully states as true any material matter that he or she knows to be false on the disclosure required by this subdivision is guilty of a misdemeanor, unless this conduct is punishable as perjury or another provision of law provides for a greater penalty.

(6) A defendant who fails to file the financial disclosure required in paragraph (5), but who has filed a financial affidavit or financial information pursuant to subdivision (c) of Section 987, shall be deemed to have waived the confidentiality of that affidavit or financial information as to a victim in whose favor the order of restitution is entered pursuant to subdivision (f). The affidavit or information shall serve in lieu of the financial disclosure required in paragraph (5), and paragraphs (7) to (10), inclusive, shall not apply.

(7) Except as provided in paragraph (6), the defendant shall file the disclosure with the clerk of the court no later than the date set for the defendant's sentencing, unless otherwise directed by the court. The disclosure may be inspected or copied as provided by subdivision (b), (c), or (d) of Section 1203.05.

(8) In its discretion, the court may relieve the defendant of the duty under paragraph (7) of filing with the clerk by requiring that the defendant's disclosure be submitted as an attachment to, and be available to, those authorized to receive the following:

(A) Any report submitted pursuant to subparagraph (C) of paragraph (2) of subdivision (b) of Section 1203 or subdivision (g) of Section 1203.

(B) Any stipulation submitted pursuant to paragraph (4) of subdivision (b) of Section 1203.

(C) Any report by the probation officer, or any information submitted by the defendant applying for a conditional sentence pursuant to subdivision (d) of Section 1203.

(9) The court may consider a defendant's unreasonable failure to make a complete disclosure pursuant to paragraph (5) as any of the following:

(A) A circumstance in aggravation of the crime in imposing a term under subdivision (b) of Section 1170.

(B) A factor indicating that the interests of justice would not be served by admitting the defendant to probation under Section 1203.

(C) A factor indicating that the interests of justice would not be served by conditionally sentencing the defendant under Section 1203.

(D) A factor indicating that the interests of justice would not be served by imposing less than the maximum fine and sentence fixed by law for the case.

(10) A defendant's failure or refusal to make the required disclosure pursuant to paragraph (5) shall not delay entry of an order of restitution or pronouncement of sentence. In appropriate cases, the court may do any of the following:

(A) Require the defendant to be examined by the district attorney pursuant to subdivision (h).

(B) If sentencing the defendant under Section 1170, provide that the victim shall receive a copy of the portion of the probation report filed pursuant to Section 1203.10 concerning the defendant's employment, occupation, finances, and liabilities.

(C) If sentencing the defendant under Section 1203, set a date and place for submission of the disclosure required by paragraph (5) as a condition of probation or suspended sentence.

(11) If a defendant has any remaining unpaid balance on a restitution order or fine 120 days prior to his or her scheduled release from probation or 120 days prior to his or her completion of a conditional sentence, the defendant shall prepare and file a new and updated financial disclosure identifying all assets, income, and liabilities in which the defendant holds or controls or has held or controlled a present or future interest during the defendant's period of probation or conditional sentence. The financial disclosure shall be made available to the victim and the board pursuant to Section 1214. The disclosure shall be signed and prepared by the defendant on the same form as described in paragraph (5). Any defendant who willfully states as true any material matter that he or she knows to be false on the disclosure required by this subdivision is guilty of a misdemeanor, unless this conduct is punishable as perjury or another

provision of law provides for a greater penalty. The financial disclosure required by this paragraph shall be filed with the clerk of the court no later than 90 days prior to the defendant's scheduled release from probation or completion of the defendant's conditional sentence.

(g) The court shall order full restitution unless it finds compelling and extraordinary reasons for not doing so, and states those reasons on the record. A defendant's inability to pay shall not be considered a compelling and extraordinary reason not to impose a restitution order, nor shall inability to pay be a consideration in determining the amount of a restitution order.

(h) The district attorney may request an order of examination pursuant to the procedures specified in Article 2 (commencing with Section 708.110) of Chapter 6 of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure, in order to determine the defendant's financial assets for purposes of collecting on the restitution order.

(i) A restitution order imposed pursuant to subdivision (f) shall be enforceable as if the order were a civil judgment.

(j) The making of a restitution order pursuant to subdivision (f) shall not affect the right of a victim to recovery from the Restitution Fund as otherwise provided by law, except to the extent that restitution is actually collected pursuant to the order. Restitution collected pursuant to this subdivision shall be credited to any other judgments for the same losses obtained against the defendant arising out of the crime for which the defendant was convicted.

(k) For purposes of this section, "victim" shall include all of the following:

(1) The immediate surviving family of the actual victim.

(2) Any corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision, agency, or instrumentality, or any other legal or commercial entity when that entity is a direct victim of a crime.

(3) Any person who has sustained economic loss as the result of a crime and who satisfies any of the following conditions:

(A) At the time of the crime was the parent, grandparent, sibling, spouse, child, or grandchild of the victim.

(B) At the time of the crime was living in the household of the victim.

(C) At the time of the crime was a person who had previously lived in the household of the victim for a period of not less than two years in a relationship substantially similar to a relationship listed in subparagraph (A).

(D) Is another family member of the victim, including, but not limited to, the victim's fiancé or fiancée, and who witnessed the crime.

(E) Is the primary caretaker of a minor victim.

(4) Any person who is eligible to receive assistance from the Restitution Fund pursuant to Chapter 5 (commencing with Section 13950) of Part 4 of Division 3 of Title 2 of the Government Code.

(*l*) At its discretion, the board of supervisors of any county may impose a fee to cover the actual administrative cost of collecting the restitution fine, not to exceed 10 percent of the amount ordered to be paid, to be added to the restitution fine and included in the order of the court, the proceeds of which shall be deposited in the general fund of the county.

(m) In every case in which the defendant is granted probation, the court shall make the payment of restitution fines and orders imposed pursuant to this section a condition of probation. Any portion of a restitution order that remains unsatisfied after a defendant is no longer on probation shall continue to be enforceable by a victim pursuant to Section 1214 until the obligation is satisfied.

(n) If the court finds and states on the record compelling and extraordinary reasons why a restitution fine or full restitution order should not be required, the court shall order, as a condition of probation, that the defendant perform specified community service, unless it finds and states on the record compelling and extraordinary reasons not to require community service in addition to the finding that restitution should not be required. Upon revocation of probation, the court shall impose restitution pursuant to this section.

(o) The provisions of Section 13963 of the Government Code shall apply to restitution imposed pursuant to this section.

(p) The court clerk shall notify the California Victim Compensation and Government Claims Board within 90 days of an order of restitution being imposed if the defendant is ordered to pay restitution to the board due to the victim receiving compensation from the Restitution Fund. Notification shall be accomplished by mailing a copy of the court order to the board, which may be done periodically by bulk mail or electronic mail.

(q) Upon conviction for a violation of Section 236.1, the court shall, in addition to any other penalty or restitution, order the defendant to pay restitution to the victim in any case in which a victim has suffered economic loss as a result of the defendant's conduct. The court shall require that the defendant make restitution to the victim or victims in an amount established by court order, based on the amount of loss claimed by the victim or victims or any other showing to the court. In determining restitution pursuant to this section, the court shall base its order upon the greater of the following: the gross value of the victim's labor or services based upon the comparable value of similar services in the labor market in which the offense occurred, or the value of the victim's labor

as guaranteed under California law, or the actual income derived by the defendant from the victim's labor or services or any other appropriate means to provide reparations to the victim.

SEC. 15. Section 1202.45 of the Penal Code is amended to read:

1202.45. In every case where a person is convicted of a crime and whose sentence includes a period of parole, the court shall at the time of imposing the restitution fine pursuant to subdivision (b) of Section 1202.4, assess an additional parole revocation restitution fine in the same amount as that imposed pursuant to subdivision (b) of Section 1202.4. This additional parole revocation restitution fine shall not be subject to penalty assessments authorized by Section 1464 or Chapter 12 (commencing with Section 76000) of Title 8 of the Government Code, or the state surcharge authorized by Section 1465.7, and shall be suspended unless the person's parole is revoked. Parole revocation restitution fine moneys shall be deposited in the Restitution Fund in the State Treasury.

SEC. 16. Section 1463 of the Penal Code is amended to read:

1463. All fines and forfeitures imposed and collected for crimes shall be distributed in accordance with Section 1463.001.

The following definitions shall apply to terms used in this chapter:

(a) "Arrest" means any law enforcement action, including issuance of a notice to appear or notice of violation, which results in a criminal charge.

(b) "City" includes any city, city and county, district, including any enterprise special district, community service district, or community service area engaged in police protection activities as reported to the Controller for inclusion in the 1989–90 edition of the Financial Transactions Report Concerning Special Districts under the heading of Police Protection and Public Safety, authority, or other local agency (other than a county) which employs persons authorized to make arrests or to issue notices to appear or notices of violation which may be filed in court.

(c) "City arrest" means an arrest by an employee of a city, or by a California Highway Patrol officer within the limits of a city.

(d) "County" means the county in which the arrest took place.

(e) "County arrest" means an arrest by a California Highway Patrol officer outside the limits of a city, or any arrest by a county officer or by any other state officer.

(f) "Court" means the superior court or a juvenile forum established under Section 257 of the Welfare and Institutions Code, in which the case arising from the arrest is filed.

(g) "Division of moneys" means an allocation of base fine proceeds between agencies as required by statute, including, but not limited to,

Sections 1463.003, 1463.9, 1463.23, and 1463.26 of this code, Sections 13001, 13002, and 13003 of the Fish and Game Code, and Section 11502 of the Health and Safety Code.

(h) "Offense" means any infraction, misdemeanor, or felony, and any act by a juvenile leading to an order to pay a financial sanction by reason of the act being defined as an infraction, misdemeanor, or felony, whether defined in this or any other code, except any parking offense as defined in subdivision (i).

(i) "Parking offense" means any offense charged pursuant to Article 3 (commencing with Section 40200) of Chapter 1 of Division 17 of the Vehicle Code, including registration and equipment offenses included on a notice of parking violation.

(j) "Penalty allocation" means the deposit of a specified part of moneys to offset designated processing costs, as provided by Section 1463.16 of this code and by Section 68090.8 of the Government Code.

(k) "Total parking penalty" means the total sum to be collected for a parking offense, whether as fine, forfeiture of bail, or payment of penalty to the Department of Motor Vehicles (DMV). It may include the following components:

(1) The base parking penalty as established pursuant to Section 40203.5 of the Vehicle Code.

(2) The DMV fees added upon the placement of a hold pursuant to Section 40220 of the Vehicle Code.

(3) The surcharges required by Section 76000 of the Government Code.

(4) The notice penalty added to the base parking penalty when a notice of delinquent parking violations is given.

(*l*) "Total fine or forfeiture" means the total sum to be collected upon a conviction, or the total amount of bail forfeited or deposited as cash bail subject to forfeiture. It may include, but is not limited to, the following components as specified for the particular offense:

(1) The "base fine" upon which the state penalty and additional county penalty is calculated.

(2) The "county penalty" required by Section 76000 of the Government Code.

(3) The "DNA penalty" required by Sections 76104.6 and 76104.7 of the Government Code.

(4) The "emergency medical services penalty" authorized by Section 76000.5 of the Government Code.

(5) The "service charge" permitted by Section 853.7 of the Penal Code and Section 40508.5 of the Vehicle Code.

(6) The "special penalty" dedicated for blood alcohol analysis, alcohol program services, traumatic brain injury research, and similar purposes.

(7) The "state penalty" required by Section 1464.

SEC. 17. Section 1464 of the Penal Code is amended to read:

1464. (a) (1) Subject to Chapter 12 (commencing with Section 76000) of Title 8 of the Government Code, and except as otherwise provided in this section, there shall be levied a state penalty in the amount of ten dollars ($10) for every ten dollars ($10), or part of ten dollars ($10), upon every fine, penalty, or forfeiture imposed and collected by the courts for all criminal offenses, including all offenses, except parking offenses as defined in subdivision (i) of Section 1463, involving a violation of a section of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code.

(2) Any bail schedule adopted pursuant to Section 1269b or bail schedule adopted by the Judicial Council pursuant to Section 40310 of the Vehicle Code may include the necessary amount to pay the penalties established by this section and Chapter 12 (commencing with Section 76000) of Title 8 of the Government Code, and the surcharge authorized by Section 1465.7, for all matters where a personal appearance is not mandatory and the bail is posted primarily to guarantee payment of the fine.

(3) The penalty imposed by this section does not apply to the following:

(A) Any restitution fine.

(B) Any penalty authorized by Chapter 12 (commencing with Section 76000) of Title 8 of the Government Code.

(C) Any parking offense subject to Article 3 (commencing with Section 40200) of Chapter 1 of Division 17 of the Vehicle Code.

(D) The state surcharge authorized by Section 1465.7.

(b) Where multiple offenses are involved, the state penalty shall be based upon the total fine or bail for each case. When a fine is suspended, in whole or in part, the state penalty shall be reduced in proportion to the suspension.

(c) When any deposited bail is made for an offense to which this section applies, and for which a court appearance is not mandatory, the person making the deposit shall also deposit a sufficient amount to include the state penalty prescribed by this section for forfeited bail. If bail is returned, the state penalty paid thereon pursuant to this section shall also be returned.

(d) In any case where a person convicted of any offense, to which this section applies, is in prison until the fine is satisfied, the judge may waive all or any part of the state penalty, the payment of which would work a hardship on the person convicted or his or her immediate family.

(e) After a determination by the court of the amount due, the clerk of the court shall collect the penalty and transmit it to the county treasury.

The portion thereof attributable to Chapter 12 (commencing with Section 76000) of Title 8 of the Government Code shall be deposited in the appropriate county fund and 70 percent of the balance shall then be transmitted to the State Treasury, to be deposited in the State Penalty Fund, which is hereby created, and 30 percent to remain on deposit in the county general fund. The transmission to the State Treasury shall be carried out in the same manner as fines collected for the state by a county.

(f) The moneys so deposited in the State Penalty Fund shall be distributed as follows:

(1) Once a month there shall be transferred into the Fish and Game Preservation Fund an amount equal to 0.33 percent of the state penalty funds deposited in the State Penalty Fund during the preceding month, except that the total amount shall not be less than the state penalty levied on fines or forfeitures for violation of state laws relating to the protection or propagation of fish and game. These moneys shall be used for the education or training of department employees which fulfills a need consistent with the objectives of the Department of Fish and Game.

(2) Once a month there shall be transferred into the Restitution Fund an amount equal to 32.02 percent of the state penalty funds deposited in the State Penalty Fund during the preceding month. Those funds shall be made available in accordance with Section 13967 of the Government Code.

(3) Once a month there shall be transferred into the Peace Officers' Training Fund an amount equal to 23.99 percent of the state penalty funds deposited in the State Penalty Fund during the preceding month.

(4) Once a month there shall be transferred into the Driver Training Penalty Assessment Fund an amount equal to 25.70 percent of the state penalty funds deposited in the State Penalty Fund during the preceding month.

(5) Once a month there shall be transferred into the Corrections Training Fund an amount equal to 7.88 percent of the state penalty funds deposited in the State Penalty Fund during the preceding month. Money in the Corrections Training Fund is not continuously appropriated and shall be appropriated in the Budget Act.

(6) Once a month there shall be transferred into the Local Public Prosecutors and Public Defenders Training Fund established pursuant to Section 11503 an amount equal to 0.78 percent of the state penalty funds deposited in the State Penalty Fund during the preceding month. The amount so transferred shall not exceed the sum of eight hundred fifty thousand dollars ($850,000) in any fiscal year. The remainder in excess of eight hundred fifty thousand dollars ($850,000) shall be transferred to the Restitution Fund.

(7) Once a month there shall be transferred into the Victim-Witness Assistance Fund an amount equal to 8.64 percent of the state penalty funds deposited in the State Penalty Fund during the preceding month.

(8) (A) Once a month there shall be transferred into the Traumatic Brain Injury Fund, created pursuant to Section 4358 of the Welfare and Institutions Code, an amount equal to 0.66 percent of the state penalty funds deposited into the State Penalty Fund during the preceding month. However, the amount of funds transferred into the Traumatic Brain Injury Fund for the 1996–97 fiscal year shall not exceed the amount of five hundred thousand dollars ($500,000). Thereafter, funds shall be transferred pursuant to the requirements of this section. Notwithstanding any other provision of law, the funds transferred into the Traumatic Brain Injury Fund for the 1997–98, 1998–99, and 1999–2000 fiscal years, may be expended by the State Department of Mental Health, in the current fiscal year or a subsequent fiscal year, to provide additional funding to the existing projects funded by the Traumatic Brain Injury Fund, to support new projects, or to do both.

(B) Any moneys deposited in the State Penalty Fund attributable to the assessments made pursuant to subdivision (i) of Section 27315 of the Vehicle Code on or after the date that Chapter 6.6 (commencing with Section 5564) of Part 1 of Division 5 of the Welfare and Institutions Code is repealed shall be utilized in accordance with paragraphs (1) to (8), inclusive, of this subdivision.

SEC. 17.5. Section 1464 of the Penal Code is amended to read:

1464. (a) (1) Subject to Chapter 12 (commencing with Section 76000) of Title 8 of the Government Code, and except as otherwise provided in this section, there shall be levied a state penalty in the amount of ten dollars ($10) for every ten dollars ($10), or part of ten dollars ($10), upon every fine, penalty, or forfeiture imposed and collected by the courts for all criminal offenses, including all offenses, except parking offenses as defined in subdivision (i) of Section 1463, involving a violation of a section of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code.

(2) Any bail schedule adopted pursuant to Section 1269b or bail schedule adopted by the Judicial Council pursuant to Section 40310 of the Vehicle Code may include the necessary amount to pay the penalties established by this section and Chapter 12 (commencing with Section 76000) of Title 8 of the Government Code, and the surcharge authorized by Section 1465.7, for all matters where a personal appearance is not mandatory and the bail is posted primarily to guarantee payment of the fine.

(3) The penalty imposed by this section does not apply to the following:

(A) Any restitution fine.

(B) Any penalty authorized by Chapter 12 (commencing with Section 76000) of Title 8 of the Government Code.

(C) Any parking offense subject to Article 3 (commencing with Section 40200) of Chapter 1 of Division 17 of the Vehicle Code.

(D) The state surcharge authorized by Section 1465.7.

(b) Where multiple offenses are involved, the state penalty shall be based upon the total fine or bail for each case. When a fine is suspended, in whole or in part, the state penalty shall be reduced in proportion to the suspension.

(c) When any deposited bail is made for an offense to which this section applies, and for which a court appearance is not mandatory, the person making the deposit shall also deposit a sufficient amount to include the state penalty prescribed by this section for forfeited bail. If bail is returned, the state penalty paid thereon pursuant to this section shall also be returned.

(d) In any case where a person convicted of any offense, to which this section applies, is in prison until the fine is satisfied, the judge may waive all or any part of the state penalty, the payment of which would work a hardship on the person convicted or his or her immediate family.

(e) After a determination by the court of the amount due, the clerk of the court shall collect the penalty and transmit it to the county treasury. The portion thereof attributable to Chapter 12 (commencing with Section 76000) of Title 8 of the Government Code shall be deposited in the appropriate county fund and 70 percent of the balance shall then be transmitted to the State Treasury, to be deposited in the State Penalty Fund, which is hereby created, and 30 percent to remain on deposit in the county general fund. The transmission to the State Treasury shall be carried out in the same manner as fines collected for the state by a county.

(f) The moneys so deposited in the State Penalty Fund shall be distributed as follows:

(1) Once a month there shall be transferred into the Fish and Game Preservation Fund an amount equal to 0.33 percent of the state penalty funds deposited in the State Penalty Fund during the preceding month, except that the total amount shall not be less than the state penalty levied on fines or forfeitures for violation of state laws relating to the protection or propagation of fish and game. These moneys shall be used for the education or training of department employees which fulfills a need consistent with the objectives of the Department of Fish and Game.

(2) Once a month there shall be transferred into the Restitution Fund an amount equal to 30.21 percent of the state penalty funds deposited in the State Penalty Fund during the preceding month. Those funds shall

be made available in accordance with Section 13967 of the Government Code.

(3) Once a month there shall be transferred into the Peace Officers' Training Fund an amount equal to 32.44 percent of the state penalty funds deposited in the State Penalty Fund during the preceding month.

(4) Once a month there shall be transferred into the Driver Training Penalty Assessment Fund an amount equal to .67 percent of the state penalty funds deposited in the State Penalty Fund during the preceding month.

(5) Once a month there shall be transferred into the Corrections Training Fund an amount equal to 13.80 percent of the state penalty funds deposited in the State Penalty Fund during the preceding month. Money in the Corrections Training Fund is not continuously appropriated and shall be appropriated in the Budget Act.

(6) Once a month there shall be transferred into the Local Public Prosecutors and Public Defenders Training Fund established pursuant to Section 11503 an amount equal to .95 percent of the state penalty funds deposited in the State Penalty Fund during the preceding month.

(7) Once a month there shall be transferred into the Victim-Witness Assistance Fund an amount equal to 13.80 percent of the state penalty funds deposited in the State Penalty Fund during the preceding month.

(8) (A) Once a month there shall be transferred into the Traumatic Brain Injury Fund, created pursuant to Section 4358 of the Welfare and Institutions Code, an amount equal to 0.66 percent of the state penalty funds deposited into the State Penalty Fund during the preceding month. However, the amount of funds transferred into the Traumatic Brain Injury Fund for the 1996–97 fiscal year shall not exceed the amount of five hundred thousand dollars ($500,000). Thereafter, funds shall be transferred pursuant to the requirements of this section. Notwithstanding any other provision of law, the funds transferred into the Traumatic Brain Injury Fund for the 1997–98, 1998–99, and 1999–2000 fiscal years, may be expended by the State Department of Mental Health, in the current fiscal year or a subsequent fiscal year, to provide additional funding to the existing projects funded by the Traumatic Brain Injury Fund, to support new projects, or to do both.

(B) Any moneys deposited in the State Penalty Fund attributable to the assessments made pursuant to subdivision (i) of Section 27315 of the Vehicle Code on or after the date that Chapter 6.6 (commencing with Section 5564) of Part 1 of Division 5 of the Welfare and Institutions Code is repealed shall be utilized in accordance with paragraphs (1) to (8), inclusive, of this subdivision.

(9) Once a month there shall be transferred into the Child Advocacy Center Fund created pursuant to subdivision (c) of Section 11166.6, an

amount equal to 3.30 percent of the state penalty funds deposited into the State Penalty Fund during the preceding month.

(10) Once a month there shall be transferred into the Victim Trauma Recovery Fund created pursuant to subdivision (a) of Section 13974.6, an amount equal to 1.81 percent of the state penalty funds deposited into the State Penalty Fund during the preceding month.

(11) 1.81 percent of the State Penalty Fund shall be allocated to the Department of Justice to be used to support the California Witness Protection Program created pursuant to Section 14020 of the Penal Code.

(12) .22 percent of the State Penalty Fund shall be allocated to the Department of Justice to be used for grants to organizations working to address violence committed against persons because of their sexual orientation or gender identity.

(g) The amendments to this section made by the Legislature in the 2007 portion of the 2006–07 Regular Session shall become operative only if the General Fund has achieved ongoing structural balance on or before July 1, 2015. Ongoing structural balance is achieved only if all economic recovery bonds are retired and the May Revision of the Governor's Budget shows revenues exceeding expenditures during both the prior and current years, excluding proceeds from borrowing.

SEC. 18. Section 1465.8 of the Penal Code is amended to read:

1465.8. (a) (1) To ensure and maintain adequate funding for court security, a fee of twenty dollars ($20) shall be imposed on every conviction for a criminal offense, including a traffic offense, except parking offenses as defined in subdivision (i) of Section 1463, involving a violation of a section of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code.

(2) For the purposes of this section, "conviction" includes the dismissal of a traffic violation on the condition that the defendant attend a court-ordered traffic violator school, as authorized by Sections 41501 and 42005 of the Vehicle Code. This security fee shall be deposited in accordance with subdivision (d), and may not be included with the fee calculated and distributed pursuant to Section 42007 of the Vehicle Code.

(b) This fee shall be in addition to the state penalty assessed pursuant to Section 1464 and may not be included in the base fine to calculate the state penalty assessment as specified in subdivision (a) of Section 1464. The penalties authorized by Chapter 12 (commencing with Section 76000) of Title 8 of the Government Code, and the state surcharge authorized by Section 1465.7, do not apply to this fee.

(c) When bail is deposited for an offense to which this section applies, and for which a court appearance is not necessary, the person making the deposit shall also deposit a sufficient amount to include the fee prescribed by this section.

(d) Notwithstanding any other provision of law, the fees collected pursuant to subdivision (a) shall all be deposited in a special account in the county treasury and transmitted therefrom monthly to the Controller for deposit in the Trial Court Trust Fund.

(e) The Judicial Council shall provide for the administration of this section.

SEC. 19. Section 1538.5 of the Penal Code is amended to read:

1538.5. (a) (1) A defendant may move for the return of property or to suppress as evidence any tangible or intangible thing obtained as a result of a search or seizure on either of the following grounds:

(A) The search or seizure without a warrant was unreasonable.

(B) The search or seizure with a warrant was unreasonable because any of the following apply:

(i) The warrant is insufficient on its face.

(ii) The property or evidence obtained is not that described in the warrant.

(iii) There was not probable cause for the issuance of the warrant.

(iv) The method of execution of the warrant violated federal or state constitutional standards.

(v) There was any other violation of federal or state constitutional standards.

(2) A motion pursuant to paragraph (1) shall be made in writing and accompanied by a memorandum of points and authorities and proof of service. The memorandum shall list the specific items of property or evidence sought to be returned or suppressed and shall set forth the factual basis and the legal authorities that demonstrate why the motion should be granted.

(b) When consistent with the procedures set forth in this section and subject to the provisions of Sections 170 to 170.6, inclusive, of the Code of Civil Procedure, the motion should first be heard by the magistrate who issued the search warrant if there is a warrant.

(c) (1) Whenever a search or seizure motion is made in the superior court as provided in this section, the judge or magistrate shall receive evidence on any issue of fact necessary to determine the motion.

(2) While a witness is under examination during a hearing pursuant to a search or seizure motion, the judge or magistrate shall, upon motion of either party, do any of the following:

(A) Exclude all potential and actual witnesses who have not been examined.

(B) Order the witnesses not to converse with each other until they are all examined.

(C) Order, where feasible, that the witnesses be kept separated from each other until they are all examined.

(D) Hold a hearing, on the record, to determine if the person sought to be excluded is, in fact, a person excludable under this section.

(3) Either party may challenge the exclusion of any person under paragraph (2).

(4) Paragraph (2) does not apply to the investigating officer or the investigator for the defendant, nor does it apply to officers having custody of persons brought before the court.

(d) If a search or seizure motion is granted pursuant to the proceedings authorized by this section, the property or evidence shall not be admissible against the movant at any trial or other hearing unless further proceedings authorized by this section, Section 871.5, 1238, or 1466 are utilized by the people.

(e) If a search or seizure motion is granted at a trial, the property shall be returned upon order of the court unless it is otherwise subject to lawful detention. If the motion is granted at a special hearing, the property shall be returned upon order of the court only if, after the conclusion of any further proceedings authorized by this section, Section 1238 or 1466, the property is not subject to lawful detention or if the time for initiating the proceedings has expired, whichever occurs last. If the motion is granted at a preliminary hearing, the property shall be returned upon order of the court after 10 days unless the property is otherwise subject to lawful detention or unless, within that time, further proceedings authorized by this section, Section 871.5 or 1238 are utilized; if they are utilized, the property shall be returned only if, after the conclusion of the proceedings, the property is no longer subject to lawful detention.

(f) (1) If the property or evidence relates to a felony offense initiated by a complaint, the motion shall be made only upon filing of an information, except that the defendant may make the motion at the preliminary hearing, but the motion shall be restricted to evidence sought to be introduced by the people at the preliminary hearing.

(2) The motion may be made at the preliminary examination only if, at least five court days before the date set for the preliminary examination, the defendant has filed and personally served on the people a written motion accompanied by a memorandum of points and authorities as required by paragraph (2) of subdivision (a). At the preliminary examination, the magistrate may grant the defendant a continuance for the purpose of filing the motion and serving the motion upon the people, at least five court days before resumption of the examination, upon a showing that the defendant or his or her attorney of record was not aware of the evidence or was not aware of the grounds for suppression before the preliminary examination.

(3) Any written response by the people to the motion described in paragraph (2) shall be filed with the court and personally served on the

defendant or his or her attorney of record at least two court days prior to the hearing at which the motion is to be made.

(g) If the property or evidence relates to a misdemeanor complaint, the motion shall be made before trial and heard prior to trial at a special hearing relating to the validity of the search or seizure. If the property or evidence relates to a misdemeanor filed together with a felony, the procedure provided for a felony in this section and Sections 1238 and 1539 shall be applicable.

(h) If, prior to the trial of a felony or misdemeanor, opportunity for this motion did not exist or the defendant was not aware of the grounds for the motion, the defendant shall have the right to make this motion during the course of trial.

(i) If the property or evidence obtained relates to a felony offense initiated by complaint and the defendant was held to answer at the preliminary hearing, or if the property or evidence relates to a felony offense initiated by indictment, the defendant shall have the right to renew or make the motion at a special hearing relating to the validity of the search or seizure which shall be heard prior to trial and at least 10 court days after notice to the people, unless the people are willing to waive a portion of this time. Any written response by the people to the motion shall be filed with the court and personally served on the defendant or his or her attorney of record at least two court days prior to the hearing, unless the defendant is willing to waive a portion of this time. If the offense was initiated by indictment or if the offense was initiated by complaint and no motion was made at the preliminary hearing, the defendant shall have the right to fully litigate the validity of a search or seizure on the basis of the evidence presented at a special hearing. If the motion was made at the preliminary hearing, unless otherwise agreed to by all parties, evidence presented at the special hearing shall be limited to the transcript of the preliminary hearing and to evidence that could not reasonably have been presented at the preliminary hearing, except that the people may recall witnesses who testified at the preliminary hearing. If the people object to the presentation of evidence at the special hearing on the grounds that the evidence could reasonably have been presented at the preliminary hearing, the defendant shall be entitled to an in camera hearing to determine that issue. The court shall base its ruling on all evidence presented at the special hearing and on the transcript of the preliminary hearing, and the findings of the magistrate shall be binding on the court as to evidence or property not affected by evidence presented at the special hearing. After the special hearing is held, any review thereafter desired by the defendant prior to trial shall be by means of an extraordinary writ of mandate or prohibition

filed within 30 days after the denial of his or her motion at the special hearing.

(j) If the property or evidence relates to a felony offense initiated by complaint and the defendant's motion for the return of the property or suppression of the evidence at the preliminary hearing is granted, and if the defendant is not held to answer at the preliminary hearing, the people may file a new complaint or seek an indictment after the preliminary hearing, and the ruling at the prior hearing shall not be binding in any subsequent proceeding, except as limited by subdivision (p). In the alternative, the people may move to reinstate the complaint, or those parts of the complaint for which the defendant was not held to answer, pursuant to Section 871.5. If the property or evidence relates to a felony offense initiated by complaint and the defendant's motion for the return or suppression of the property or evidence at the preliminary hearing is granted, and if the defendant is held to answer at the preliminary hearing, the ruling at the preliminary hearing shall be binding upon the people unless, upon notice to the defendant and the court in which the preliminary hearing was held and upon the filing of an information, the people, within 15 days after the preliminary hearing, request a special hearing, in which case the validity of the search or seizure shall be relitigated de novo on the basis of the evidence presented at the special hearing, and the defendant shall be entitled, as a matter of right, to a continuance of the special hearing for a period of time up to 30 days. The people may not request relitigation of the motion at a special hearing if the defendant's motion has been granted twice. If the defendant's motion is granted at a special hearing, the people, if they have additional evidence relating to the motion and not presented at the special hearing, shall have the right to show good cause at the trial why the evidence was not presented at the special hearing and why the prior ruling at the special hearing should not be binding, or the people may seek appellate review as provided in subdivision (o), unless the court, prior to the time the review is sought, has dismissed the case pursuant to Section 1385. If the case has been dismissed pursuant to Section 1385, either on the court's own motion or the motion of the people after the special hearing, the people may file a new complaint or seek an indictment after the special hearing, and the ruling at the special hearing shall not be binding in any subsequent proceeding, except as limited by subdivision (p). If the property or evidence seized relates solely to a misdemeanor complaint, and the defendant made a motion for the return of property or the suppression of evidence in the superior court prior to trial, both the people and defendant shall have the right to appeal any decision of that court relating to that motion to the appellate division, in accordance with the California Rules of Court provisions governing appeals to the appellate

division in criminal cases. If the people prosecute review by appeal or writ to decision, or any review thereof, in a felony or misdemeanor case, it shall be binding upon them.

(k) If the defendant's motion to return property or suppress evidence is granted and the case is dismissed pursuant to Section 1385, or the people appeal in a misdemeanor case pursuant to subdivision (j), the defendant shall be released pursuant to Section 1318 if he or she is in custody and not returned to custody unless the proceedings are resumed in the trial court and he or she is lawfully ordered by the court to be returned to custody.

If the defendant's motion to return property or suppress evidence is granted and the people file a petition for writ of mandate or prohibition pursuant to subdivision (o) or a notice of intention to file a petition, the defendant shall be released pursuant to Section 1318, unless (1) he or she is charged with a capital offense in a case where the proof is evident and the presumption great, or (2) he or she is charged with a noncapital offense defined in Chapter 1 (commencing with Section 187) of Title 8 of Part 1, and the court orders that the defendant be discharged from actual custody upon bail.

(*l*) If the defendant's motion to return property or suppress evidence is granted, the trial of a criminal case shall be stayed to a specified date pending the termination in the appellate courts of this state of the proceedings provided for in this section, Section 871.5, 1238, or 1466 and, except upon stipulation of the parties, pending the time for the initiation of these proceedings. Upon the termination of these proceedings, the defendant shall be brought to trial as provided by Section 1382, and, subject to the provisions of Section 1382, whenever the people have sought and been denied appellate review pursuant to subdivision (o), the defendant shall be entitled to have the action dismissed if he or she is not brought to trial within 30 days of the date of the order that is the last denial of the petition. Nothing contained in this subdivision shall prohibit a court, at the same time as it rules upon the search and seizure motion, from dismissing a case pursuant to Section 1385 when the dismissal is upon the court's own motion and is based upon an order at the special hearing granting the defendant's motion to return property or suppress evidence. In a misdemeanor case, the defendant shall be entitled to a continuance of up to 30 days if he or she intends to file a motion to return property or suppress evidence and needs this time to prepare for the special hearing on the motion. In case of an appeal by the defendant in a misdemeanor case from the denial of the motion, he or she shall be entitled to bail as a matter of right, and, in the discretion of the trial or appellate court, may be released on his or her own recognizance pursuant to Section 1318. In the case of an appeal by the

defendant in a misdemeanor case from the denial of the motion, the trial court may, in its discretion, order or deny a stay of further proceedings pending disposition of the appeal.

(m) The proceedings provided for in this section, and Sections 871.5, 995, 1238, and 1466 shall constitute the sole and exclusive remedies prior to conviction to test the unreasonableness of a search or seizure where the person making the motion for the return of property or the suppression of evidence is a defendant in a criminal case and the property or thing has been offered or will be offered as evidence against him or her. A defendant may seek further review of the validity of a search or seizure on appeal from a conviction in a criminal case notwithstanding the fact that the judgment of conviction is predicated upon a plea of guilty. Review on appeal may be obtained by the defendant provided that at some stage of the proceedings prior to conviction he or she has moved for the return of property or the suppression of the evidence.

(n) This section establishes only the procedure for suppression of evidence and return of property, and does not establish or alter any substantive ground for suppression of evidence or return of property. Nothing contained in this section shall prohibit a person from making a motion, otherwise permitted by law, to return property, brought on the ground that the property obtained is protected by the free speech and press provisions of the United States and California Constitutions. Nothing in this section shall be construed as altering (1) the law of standing to raise the issue of an unreasonable search or seizure; (2) the law relating to the status of the person conducting the search or seizure; (3) the law relating to the burden of proof regarding the search or seizure; (4) the law relating to the reasonableness of a search or seizure regardless of any warrant that may have been utilized; or (5) the procedure and law relating to a motion made pursuant to Section 871.5 or 995, or the procedures that may be initiated after the granting or denial of a motion.

(o) Within 30 days after a defendant's motion is granted at a special hearing in a felony case, the people may file a petition for writ of mandate or prohibition in the court of appeal, seeking appellate review of the ruling regarding the search or seizure motion. If the trial of a criminal case is set for a date that is less than 30 days from the granting of a defendant's motion at a special hearing in a felony case, the people, if they have not filed a petition and wish to preserve their right to file a petition, shall file in the superior court on or before the trial date or within 10 days after the special hearing, whichever occurs last, a notice of intention to file a petition and shall serve a copy of the notice upon the defendant.

(p) If a defendant's motion to return property or suppress evidence in a felony matter has been granted twice, the people may not file a new

complaint or seek an indictment in order to relitigate the motion or relitigate the matter de novo at a special hearing as otherwise provided by subdivision (j), unless the people discover additional evidence relating to the motion that was not reasonably discoverable at the time of the second suppression hearing. Relitigation of the motion shall be heard by the same judge who granted the motion at the first hearing if the judge is available.

(q) The amendments to this section enacted in the 1997 portion of the 1997–98 Regular Session of the Legislature shall apply to all criminal proceedings conducted on or after January 1, 1998.

SEC. 20. Section 6608.8 of the Welfare and Institutions Code is amended to read:

6608.8. (a) For any person who is proposed for community outpatient treatment under the forensic conditional release program, the department shall provide to the court a copy of the written contract entered into with any public or private person or entity responsible for monitoring and supervising the patient's outpatient placement and treatment program. This subdivision does not apply to subcontracts between the contractor and clinicians providing treatment and related services to the person.

(b) The terms and conditions of conditional release shall be drafted to include reasonable flexibility to achieve the aims of conditional release, and to protect the public and the conditionally released person.

(c) The court in its discretion may order the department to, notwithstanding Section 4514 or 5328, provide a copy of the written terms and conditions of conditional release to the sheriff or chief of police, or both, that have jurisdiction over the proposed or actual placement community.

(d) (1) Except in an emergency, the department or its designee shall not alter the terms and conditions of conditional release without the prior approval of the court.

(2) The department shall provide notice to the person committed under this article and the district attorney or designated county counsel of any proposed change in the terms and conditions of conditional release.

(3) The court on its own motion, or upon the motion of either party to the action, may set a hearing on the proposed change. The hearing shall be held as soon as is practicable.

(4) If a hearing on the proposed change is held, the court shall state its findings on the record. If the court approves a change in the terms and conditions of conditional release without a hearing, the court shall issue a written order.

(5) In the case of an emergency, the department or its designee may deviate from the terms and conditions of the conditional release if necessary to protect public safety or the safety of the person. If a hearing

on the emergency is set by the court or requested by either party, the hearing shall be held as soon as practicable. The department, its designee, and the parties shall endeavor to resolve routine matters in a cooperative fashion without the need for a formal hearing.

(e) Notwithstanding any provision of this section, including, but not limited to, subdivision (d), matters concerning the residential placement, including any changes or proposed changes in the residence of the person, shall be considered and determined pursuant to Section 6609.1.

SEC. 21. The changes to Section 1538.5 of the Penal Code by Section 19 of this act are technical amendments that are not intended to conflict with subdivision (d) of Section 28 of Article 1 of the California Constitution.

SEC. 22. It is the intent of the Legislature, in enacting Sections 2 to 8, inclusive, and Sections 14 to 18, inclusive, of this act, to construe and clarify the meaning and effect of existing law and to reject the interpretation given to the law in People v. Chavez (2007) 150 Cal.App.4th 1288.

SEC. 23. Section 17.5 of this bill incorporates amendments to Section 1464 of the Penal Code proposed by both this bill and SB 153. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2008, (2) each bill amends Section 1464 of the Penal Code, and (3) this bill is enacted after SB 153, in which case Section 17 of this bill shall not become operative.

SEC. 24. (a) Any section of any other act, other than Assembly Bill 299, that is enacted by the Legislature during the 2007 calendar year, that takes effect on or before January 1, 2008, and that amends, amends and renumbers, adds, repeals and adds, or repeals any one or more of the sections affected by Section 1, Sections 9 to 13, inclusive, Section 19, or Section 20 of this act, shall prevail over this act, whether this act is enacted prior to, or subsequent to, the enactment of that act. The repeal, or repeal and addition, of any article, chapter, part, title, or division of any code by Section 1, Sections 9 to 13, inclusive, Section 19, or Section 20 of this act shall not become operative if any section of any other act other than Assembly Bill 299 that is enacted by the Legislature during the 2007 calendar year and takes effect on or before January 1, 2008, amends, amends and renumbers, adds, repeals and adds, or repeals, or repeals any section contained in that article, chapter, part, title, or division.

CHAPTER 303

An act to amend Sections 10089.5, 10089.9, 10089.13, 10089.16, 10089.23, 10089.30, and 10089.33 of, and to add Section 10089.31 to, the Insurance Code, relating to insurance.

[Approved by Governor October 5, 2007. Filed with Secretary of State October 5, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 10089.5 of the Insurance Code is amended to read:

10089.5. As used in this chapter:

(a) "Authority" means the California Earthquake Authority.

(b) "Available capital" means the sum of all moneys and invested assets actually held in the California Earthquake Authority Fund, less loss reserves and loss adjustment expense reserves under all of the authority's policies of residential earthquake insurance, and less the unearned premium reserve. "Available capital" includes all interest or other income from the investment of money held in the California Earthquake Authority Fund. "Available capital" does not include unearned premium, the proceeds of contracts of reinsurance procured by or in the name of the authority pursuant to subdivision (a) of Section 10089.10, any funds realized on capital market contracts authorized by subdivision (b) of Section 10089.10, or the proceeds of bonds issued by or in the name of the authority.

(c) "Basic residential earthquake insurance" means that policy of residential earthquake insurance described in Section 10089 except as follows:

(1) (A) If one year after the authority commences operation the authority has available capital equal to or exceeding seven hundred million dollars ($700,000,000), any policy issued or renewed on or after that date shall provide, less any applicable deductible, not less than two thousand five hundred dollars ($2,500) in coverage for additional living expenses.

(B) If the authority met the available capital requirements of subparagraph (A) and two years after the authority commences operation the authority has available capital equal to or exceeding seven hundred million dollars ($700,000,000), any policy issued or renewed on or after that date shall provide, less any applicable deductible, not less than three thousand dollars ($3,000) in coverage for additional living expenses.

(2) (A) If the authority did not meet the available capital requirement of subparagraph (A) of paragraph (1) but, two years after the authority commences operation the authority has available capital equal to or exceeding seven hundred million dollars ($700,000,000), any policy issued or renewed on or after that date shall provide, less any applicable deductible, not less than two thousand five hundred dollars ($2,500) in coverage for additional living expenses.

(B) If the authority met the available capital requirements as provided by subparagraph (A) and three years after the authority commences operation the authority has available capital equal to or exceeding seven hundred million dollars ($700,000,000), any policy issued or renewed on or after that date shall provide, less any applicable deductible, not less than three thousand dollars ($3,000) in coverage for additional living expenses.

(d) "Board" means the governing board of the authority.

(e) "Bonds" means bonds, notes, commercial paper, variable rate and variable maturity securities, and any other evidence of indebtedness.

(f) "Capital market contract" means an agreement between the authority and a purchaser pursuant to which the purchaser agrees to purchase bonds of the authority.

(g) "Nonparticipating insurer" means an insurer that elects not to transfer or place any residential earthquake policies in the authority.

(h) "Panel" means the advisory panel of the authority.

(i) "Participating insurer" means an insurer that has elected to join the authority.

(j) "Policy of residential property insurance" means those policies described in Section 10087.

(k) "Private capital market" means one or more purchasers of bonds of the authority pursuant to a capital market contract.

(*l*) "Qualifying residential property" includes all those residential dwellings set forth in Section 10087.

(m) "Residential earthquake insurance market share" means an individual insurer's total direct premium received for (1) residential earthquake policies and endorsements written or renewed by the insurer in California and (2) residential earthquake policies written or renewed by the authority for which the insurer has written or renewed an underlying policy of residential property insurance, divided by the total gross premiums received by all admitted insurers and the authority for their basic residential earthquake insurance in California.

(n) "Residential property insurance market share" means an individual insurer's total gross premiums received for residential property insurance policies written or renewed by the insurer, divided by the total gross

premiums received by all admitted insurers for residential property insurance in California.

(o) "Revenue" means all income and receipts of the authority, including, but not limited to, income and receipts derived from premiums, bond purchase agreements, capital contributions by insurers, assessments levied on insurers, surcharges applied to authority earthquake policyholders, and all interest or other income from investment of money in any fund or account of the authority established for the payment of principal or interest, or premiums on bonds, including reserve funds.

(p) "Unearned premium reserve" means an amount equal to the unearned portion of premiums due to, or received by, the authority on all of its policies of residential earthquake insurance, without deduction on account of reinsurance ceded. The unearned premium reserve shall be charged as a reserve liability in determining the authority's financial condition. Because the unearned premium reserve is established and maintained to protect the interests of authority policyholders in their unexpired authority policies, authority assets in an amount equal to the unearned premium reserve shall not be subject to encumbrance by, or distribution to, creditors of or claimants against the authority unless and until the authority has paid in full all policyholder claims and policyholder liabilities.

SEC. 2. Section 10089.9 of the Insurance Code is amended to read:

10089.9. (a) Upon commencement of participation in the authority, each participating insurer shall be required to execute a contract with the commissioner and the authority that sets forth its rights and responsibilities as an authority participant. The form of contract shall be part of the authority's plan of operations and shall be uniform for every participating insurer.

(b) The uniform authority participation contract required by subdivision (a) may be modified by the full execution of a writing, in a form drawn in accordance with this act, that embodies the mutual intent and understandings of the commissioner, the authority, and each participating insurer that has executed the authority participation contract.

(c) In the event a nonparticipating insurer elects to become a participating insurer of the authority, the authority is authorized to present to the nonparticipating insurer the most recent form of the amended uniform authority participation contract it has executed or proposed to execute with existing participating insurers and require its execution as a condition of authority participation. The acceptance by the authority of, and reliance by the authority on, the executed amended authority participation contract that is authorized by this subdivision shall not be deemed a lack of the uniformity of contract required by subdivision (a).

SEC. 3. Section 10089.13 of the Insurance Code is amended to read:

10089.13. (a) One year following its commencement of operations, and annually thereafter by each May 1, the authority shall report to the Legislature and the commissioner on program operations in a format prescribed by the commissioner. The report shall include, but shall not be limited to, the financial condition of the authority, a description of all rates and rating plans approved for use in the authority, an evaluation of the functioning of the authority in light of its stated purpose of making residential property insurance and residential earthquake insurance more available. The report shall also include an analysis of the growth by market share of residential property insurance of participating insurers compared to nonparticipating insurers, any adverse consequences on the various insurance distribution systems resulting from the operation of the authority or alterations in the growth of the residential property insurance market share between participating insurers and nonparticipating insurers, any adverse consequences of the various insurance distribution systems resulting from the operation of the authority or alterations in the growth of homeowners' insurance market share between participating insurers and nonparticipating insurers, and an analysis of any recommended program changes to permit the authority to better fulfill its stated purpose. In making this determination the board shall be mindful of the competitive nature of the market and how any decision can negatively impact insurers who are currently competing in the marketplace.

(b) The annual report shall include full information describing the following matters relating to the authority's condition and affairs:

(1) The property or assets held by the authority, including the amount of cash on hand and deposited in banks to its credit, the amount of cash in the hands of servicing insurance companies, the amount of any stocks or bonds owned by the authority, specifying the amount, number of shares, and the par and market value of each kind of stock or bond, and all other assets, specifying each.

(2) The liabilities of the authority, including the amount of losses due and unpaid, the amount of claims for losses resisted by the authority and the amount of losses in the process of adjustment or in suspense, including all reported and supposed losses, the amount of revenue bonds or other debt financing issues under Section 10089.29 or Section 10089.50, and all other liabilities.

(3) Income of the authority during the preceding year, specifying premiums received, interest money received, and income from all other sources, specifying the source.

(4) Expenditures of the authority during the preceding year, specifying the amount of losses paid, the amount of expenses paid by category, and the amount of all other payments and expenditures.

(5) The costs and scope of all reinsurance and capital market contracts entered into by the authority under Section 10089.10.

(c) As part of the annual report, the authority shall make a separate, summary report on the financial capacity of the authority to pay claims made against the authority. Copies of this report shall also be made available to the public. The report shall include, but shall not be limited to, the following information, valued as of 30 days prior to the date of the report:

(1) The available capital of the authority.

(2) The liabilities of the authority.

(3) The amount of all assessments previously made and the amount of assessments that may be made in the future under Section 10089.23.

(4) The amount of the reinsurance under contract and actually available to the authority.

(5) The amount of all revenue bonds or other debt financing previously issued or contracted for and the amount of all revenue bonds or other debt financing that may be issued or contracted for in the future under Section 10089.29.

(6) The amount of surcharges previously assessed against policyholders and the amount of surcharges that are currently outstanding against policyholders under Section 10089.29.

(7) The amount of capital committed and actually available by contract from private capital markets that is available to pay claims against the authority.

(8) The amount of all assessments previously made and the amount of all assessments that may be made in the future under Section 10089.30.

(9) The amount of all assessments previously made and the amount of all assessments that may be made in the future under Section 10089.31.

(d) In verification of the matters set forth in the annual report provided for in subdivision (a), the Department of Finance shall approve independent qualified auditors selected by the commissioner to examine the books and accounts relating to all matters concerning the financial and program operations of the authority. The commissioner shall file a certified report of the examination with the President pro Tempore of the Senate, the Speaker of the Assembly, the Chairpersons of the Senate and Assembly Insurance Committees, and the Chairperson of the Senate Committee on Judiciary within 10 days of its receipt. Copies of this report shall also be made available to the public. The expense of examining the books and accounts of the authority shall be paid out of the operating funds of the authority.

(e) The authority shall, within 120 days following a seismic event that results in the payment of claims by the authority, and within one year of a major seismic event that results in the payment of claims by

the authority, submit to the President pro Tempore of the Senate, the Speaker of the Assembly, the Chairpersons of the Senate and Assembly Insurance Committees, and the Chairperson of the Senate Committee on Judiciary, and the commissioner a concise written report of program operations related to that seismic event. The reports shall include, but not be limited to, progress on payment of claims, claims payments made and anticipated, and the functioning of the authority in response to the seismic event. Copies of this report shall also be made available to the public.

SEC. 4. Section 10089.16 of the Insurance Code is amended to read:

10089.16. (a) On application to the board, payment of any assessments and fees calculated by the board, and fulfillment of any additional requirements imposed by the board, nonparticipating insurers may become participants in the authority with all rights and privileges attendant to that participation.

(b) In order to act upon any findings and recommendations reported to the Legislature pursuant to Section 10089.13, or to implement a specific finding by the commissioner or the board that modification of requirements for entry into the authority is necessary to broaden the availability of residential property or residential earthquake insurance, the board is authorized to open the authority to participation by insurers who have not elected to participate in compliance with Section 10089.15. In implementing the authority granted by this section, the board may:

(1) Offer incentives for insurers to participate in the authority.

(2) Allow any insurer or insurer group that has not elected to become a participating insurer to become an associate participating insurer without complying with the capital contribution requirements of Section 10089.15 if it has maintained or exceeded its number of policies of residential property insurance written as of January 1, 1996.

(c) Any action by the board pursuant to subdivision (b) shall be subject to the following conditions and limitations:

(1) Any deliberation and action by the board shall be conducted at a public meeting of the board.

(2) No action may be taken within one year of the date upon which the authority begins writing policies of basic residential earthquake insurance.

(3) The board shall have no authority to modify the requirements of Section 10089.23, 10089.30, or 10089.31, or to provide, in any other manner, for reduction of the liability of an insurer or insurer group to comply with the assessments placed upon participating insurers in the event of a loss.

(4) Notwithstanding Section 10089.11, any action of the board pursuant to subdivision (b) shall be by regulation promulgated by the

board. Notwithstanding any other provision of law, there shall be no authority by the board to promulgate emergency regulations to implement subdivision (b). No regulations may be proposed within one year of the date upon which the authority begins writing policies of basic residential earthquake insurance. Notwithstanding any exception provided in Section 11343 of the Government Code, any regulation adopted pursuant to subdivision (b) shall be submitted to the Office of Administrative Law for approval pursuant to the Administrative Procedure Act.

(5) Any action by the board to establish an incentive pursuant to subdivision (b) that is available to a single insurer or insurer group shall be based upon standards adopted by the board that are not arbitrary or discriminatory. Notwithstanding Section 10089.11, these standards shall be established by regulation promulgated by the board.

(6) A finding of necessity pursuant to subdivision (b) shall state the specific facts and conditions that establish the necessity and justify the actions to implement subdivision (b). All materials and documents prepared or used by the authority to determine the necessity to implement subdivision (b), other than proprietary materials and documents owned or licensed by third parties, shall be considered public documents, and copies of the public documents shall be made available to the public for inspection at no charge. Members of the public may purchase copies of these documents from the authority at actual cost.

(d) (1) A nonparticipating insurer that applies to the board to become an authority participant must submit to the authority, in connection with its application, earthquake insurance policy data sufficient for the authority to ascertain through computer modeling the current likelihood and magnitude of earthquake insurance losses that would be attributable to that insurer's book of earthquake insurance business during its first full year of authority participation. The authority's modeled representation of such insured earthquake losses shall be termed the "earthquake insurance risk profile" of that insurer.

(2) If in the board's sole judgment the earthquake insurance risk profile the nonparticipating insurer would bring to the authority would be more likely to produce losses for the authority, or would be likely to produce greater losses for the authority, than would a book of existing authority business of similar size, the board may require as a condition for approving the insurer's application that the insurer pay up to five annual risk capital surcharges into the authority in addition to any capital contribution required by Section 10089.15 and any assessment obligations required by Sections 10089.23, 10089.30, and 10089.31.

(3) The board shall first calculate the nonparticipating insurer's risk capital surcharge as of the first anniversary of the date the insurer first placed or renewed into the authority earthquake insurance policies. The

board shall recalculate the risk capital surcharge for each of up to four years after the first year of calculation and shall impose the resulting surcharge; if the insurer's earthquake insurance risk profile becomes substantially similar to the authority's average risk profile for a book of authority earthquake insurance business of similar size, the board shall relieve the insurer of any further obligation to pay risk capital surcharges.

(4) Each annual risk capital surcharge shall be in an amount that, in the board's determination, is equal to the authority's increased cost of providing capacity to insure that insurer's excess earthquake insurance risk. The authority shall cause to be sent to each such insurer a notice of that insurer's annual risk capital surcharge.

(5) Full payment of a noticed risk capital surcharge shall be due within 30 days and shall be overdue after 30 days. Penalties and interest shall be assessed for late payments in the same manner as provided for late payments of the insurer gross premium tax provided for in Section 12258 of the Revenue and Taxation Code. The board may waive the penalties and interest for good cause shown.

(e) Associate participating insurers shall place all new policies of residential earthquake insurance, when writing new policies of residential property insurance, into the authority. Insurers placing policies with the authority under this section shall be subject to the assessments provided for in Sections 10089.23, 10089.30, and 10089.31. Notwithstanding subdivision (m) of Section 10089.5, "residential earthquake insurance market share" for purposes of any assessments pursuant to Sections 10089.23, 10089.30, and 10089.31 levied on an associate participating insurer shall mean an individual associate participating insurer's total direct premium received for residential earthquake policies written or renewed by the authority for which the insurer has written or renewed an underlying policy of residential property insurance, divided by the total gross premiums received by all admitted insurers and the authority for their basic residential earthquake insurance in California.

(f) (1) An associate participating insurer shall not cancel or refuse to renew a residential property insurance policy existing on the date it elected to become an associate participating insurer after an offer of earthquake coverage is accepted solely because the insured has accepted that offer of earthquake coverage.

(2) An associate participating insurer shall maintain in force any policy of residential property insurance existing on the date it elected to become an associate participating insurer after an offer of earthquake insurance has been accepted, unless the policy is properly canceled pursuant to Section 676 or the associate participating insurer has grounds for nonrenewal pursuant to subdivision (g).

(g) An associate participating insurer may refuse to renew a policy of residential property insurance after an offer of earthquake coverage has been accepted if one of the following exceptions applies:

(1) The policy is terminated by the named insured.

(2) The policy is refused renewal on the basis of sound underwriting principles that relate to the coverages provided by the underlying policy of residential property insurance and that are consistent with the approved rating plan and related documents filed with the department as required by existing law.

(3) The commissioner finds that the exposure to potential losses will threaten the solvency of the associate participating insurer or place the associate participating insurer in a hazardous condition. "Hazardous condition" has the same meaning as in Section 1065.1 and includes, but is not limited to, a condition in which an associate participating insurer makes claims payments for losses resulting from an earthquake that occurred within the preceding two years and that required a reduction in policyholder surplus of at least 25 percent for payment of those claims.

(4) There is cancellation under Section 676.

(5) The associate participating insurer has lost or experienced a substantial reduction in the availability or scope of reinsurance coverage or a substantial increase in the premium charged for reinsurance coverage for its residential property insurance policies, and the commissioner has approved a plan for the nonrenewals that is fair and equitable, and that is responsive to the changes in the associate participating insurer's reinsurance position.

(6) The named insured is insured based upon membership in a motor club, as defined in Section 12142, and the membership in that organization is terminated as provided in paragraph (2) of subdivision (c) of Section 1861.03.

(h) For associate participating insurers, underwriting standards applicable to residential property insurance shall not be applied in an unfairly discriminatory fashion against any person who accepts or elects to continue earthquake coverage.

(i) Associate participating insurers shall be subject to the following requirements:

(1) Associate participating insurers shall conform to all provisions of the authority's plan of operation applicable to participating insurers.

(2) No property that has previously been covered by a policy of residential earthquake insurance written by the associate participating insurer or associate participating insurer group, absent at least one full policy year with an insurer not affiliated with the associate participating insurer or its group, may be placed into the authority by an associate participating insurer.

(3) Any associate participating insurer or associate participating insurer group defined in paragraph (2) of subdivision (b) that has failed to maintain or exceed the number of policies of residential property insurance in force on January 1, 1996, may become an associate participating insurer by contributing additional capital into the authority at a rate to be established by the board, which shall be a per policy rate comparable to the average cost per policy paid by a participating insurer that joins the authority pursuant to Section 10089.15.

(j) Any associate participating insurer shall be required to establish procedures to verify compliance with this section. The procedures shall require verification that each basic residential earthquake policy written by the authority complies with paragraph (2) of subdivision (i).

(k) Any violation of this section may be enforced as a violation of the Unfair Trade Practices Act (Article 6.5 (commencing with Section 790) of Chapter 1 of Part 2 of Division 1). Each policy of basic residential earthquake insurance written in the authority by an associate participating insurer in violation of this section shall be deemed to be a separate violation of the Unfair Trade Practices Act.

(*l*) For purposes of this section, no insurer or associate participating insurer may participate in the authority unless all affiliated insurers participate in the authority.

(m) Policies of basic residential earthquake insurance written by associate participating insurers shall be subject to assessment by the California Insurance Guarantee Association and shall be covered to the extent provided in Article 14.2 (commencing with Section 1063) of Chapter 1 of Part 2 of Division 1. Except as provided in Section 10089.34, insurance policies written by participating insurers that are not associate participating insurers shall not be subject to assessment by the California Insurance Guarantee Association if the assessment is imposed to pay claims covered by policies of basic residential earthquake insurance written by an associate participating insurer.

SEC. 5. Section 10089.23 of the Insurance Code is amended to read:

10089.23. (a) (1) If at any time following the payment of earthquake claims and claim expenses the authority's available capital is reduced to less than three hundred fifty million dollars ($350,000,000), or if at any time the authority's available capital is insufficient to pay benefits and continue operations, the authority shall have the power to assess participating insurance companies subject to the maximum limits as set forth in this section and Section 10089.30. The assessment shall be limited to the amount necessary to pay the outstanding or expected claims and claim expenses of the authority and to return the authority's available capital to three hundred fifty million dollars ($350,000,000), as determined by the board, subject to approval by the commissioner.

(2) Each participating insurer's assessment shall be determined by multiplying the percentage share of the authority's total gross written premium that is attributable to that participating insurer's sales of authority insurance policies, as of April 30 of the immediately preceding year or the most recent year for which premium data not more than one year old are available, by the amount of the total assessment sought by the authority.

(3) The maximum permissible insurer assessments pursuant to this section, the maximum permissible insurer assessments pursuant to Section 10089.30 and Section 10089.31, the maximum permissible earthquake policyholder assessments pursuant to Section 10089.29, and the maximum permissible bond issuances or other debt financing issued or secured by the Treasurer pursuant to Section 10089.29 shall be reduced uniformly by multiplication of the maximum assessments and other amounts provided in those sections by the percentage of the total residential property insurance market share participation attained by the authority. The total amount of all assessments levied on participating insurance companies by the authority pursuant to this section shall not exceed three billion dollars ($3,000,000,000), regardless of the frequency or severity of earthquake losses at any and all times subsequent to the creation of the authority. Once a participating insurer has paid, pursuant to this section, amounts equal to the percentage share of the authority's total gross written premium attributable to that participating insurer's sales of authority insurance policies, as of April 30 of the immediately preceding year or the most recent full year for which premium data not more than one year old are available, multiplied by three billion dollars ($3,000,000,000) reduced as provided in this paragraph from the maximum assessment, the authority's power to assess that insurer under this section shall cease and the authority shall be prohibited from levying additional assessments on that insurer pursuant to this section.

(4) Beginning December 31 of the first year of operations, and each December 31 thereafter, the board shall adjust the maximum permissible insurer assessments pursuant to this section, the maximum permissible insurer assessments pursuant to Sections 10089.30 and 10089.31, the maximum permissible authority policyholder assessment pursuant to Section 10089.29, and the maximum permissible bond issuances or other debt financing issued or secured by the Treasurer pursuant to Section 10089.29 to reflect the market share of new insurers entering into the authority as authorized by Sections 10089.15 and 10089.16 and participating insurers withdrawing from the authority as authorized by Section 10089.19. The adjustments shall be made in the same manner as authorized by paragraph (3).

(b) In the case of any insurer assessment, the authority shall cause to be sent to each participating insurer a notice of that insurer's assessment, and full payment shall be due within 30 days and shall be overdue after 30 days. Penalties and interest shall be assessed for late payments in the same manner as provided for late payments of the insurer gross premium tax pursuant to Section 12258 of the Revenue and Taxation Code. The board may waive the penalties and interest for good cause shown. The board shall make every effort to assess insurers only for funds reasonably anticipated to be necessary for claims payments and claim expenses and to return the authority's available capital to three hundred fifty million dollars ($350,000,000).

(c) Notwithstanding the other provisions of this section, the aggregate assessment the authority is authorized by this section to impose shall be reduced to zero on December 1, 2008, with respect to earthquake events that commence on or after December 1, 2008.

(d) The authority shall not assess a participating insurer under this section based on any insurance business that is attributable to the insurer selling the insurer's insurance products that supplement or augment the basic residential earthquake insurance provided by the authority.

SEC. 6. Section 10089.30 of the Insurance Code is amended to read:

10089.30. If claims and claim expenses paid by the authority due to earthquake events exhaust the total of (a) the authority's available capital, (b) the maximum amount of all insurer capital contributions and assessments pursuant to Sections 10089.15 and 10089.23, (c) all reinsurance actually available and under contract to the authority, (d) the maximum amount of all authority policyholder assessments pursuant to Section 10089.29, and (e) all capital committed and actually available from the private capital markets, the board, subject to the approval of the commissioner, shall have the power to assess participating insurance companies subject to the maximum limits in this section. Each participating insurer's assessment shall be determined by multiplying the percentage share of the authority's total gross written premium attributable to that participating insurer's sales of authority insurance policies, as of April 30 of the immediately preceding year or the most recent year for which premium data not more than one year old are available, by the amount of the total assessment sought by the authority. The total amount of all assessments levied against participating insurance companies by the authority pursuant to this section shall not exceed two billion dollars ($2,000,000,000), regardless of the frequency or severity of earthquake losses at any and all times subsequent to the creation of the authority. Once a participating insurer has paid, pursuant to this section, amounts equal to its percentage share of the authority's total gross written premium, multiplied by two billion dollars ($2,000,000,000)

reduced from the maximum assessment as provided in paragraph (3) of subdivision (a) of Section 10089.23, the authority's power to assess that insurer under this section shall cease and the authority shall be prohibited from levying additional assessments on that insurer pursuant to this section. The assessment shall be limited to the amount necessary to pay the expected claims and claim expenses of the authority and return the authority's available capital to three hundred fifty million dollars ($350,000,000), as determined by the board, subject to approval by the commissioner.

SEC. 7. Section 10089.31 is added to the Insurance Code, to read:

10089.31. If claims and claim expenses paid by the authority due to earthquake events that commence on or after December 1, 2008, exhaust the total of all (a) the authority's available capital, (b) the maximum amount of all insurer capital contributions and assessments pursuant to Sections 10089.15, 10089.23, and 10089.30, (c) all reinsurance actually available and under contract to the authority, (d) the maximum amount of all authority policyholder assessments pursuant to Section 10089.29, and (e) all capital committed and actually available from the private capital markets, the board, beginning December 1, 2008, for earthquake events commencing on or after December 1, 2008, shall have the power to assess participating insurance companies subject to the maximum limits in this section. Each participating insurer's assessment shall be determined by multiplying the percentage share of the authority's total gross written premium attributable to that participating insurer's sales of authority insurance policies as of April 30 of the immediately preceding year, or the most recent year for which premium data not more than one year old are available, by the amount of the total assessment sought by the authority. The total amount of all assessments levied against participating insurance companies by the authority pursuant to this section shall not exceed one billion seven hundred eighty million dollars ($1,780,000,000), regardless of the frequency or severity of earthquake losses at any and all times subsequent to the creation of the authority. Once a participating insurer has paid pursuant to this section amounts equal to its percentage share of the authority's total gross written premium, multiplied by one billion seven hundred eighty million dollars ($1,780,000,000) reduced as provided in paragraph (3) of subdivision (a) of Section 10089.23 from the maximum assessment, which is to be reduced periodically pursuant to subdivision (b) of Section 10089.33, or upon the earlier occurrence of the effective date stated in paragraph (6) of subdivision (b) of Section 10089.33, the authority's power to assess that insurer under this section shall cease and the authority shall be prohibited from levying additional assessments on that insurer pursuant to this section. The assessment shall be limited to the amount

necessary to pay the expected claims and claim expenses of the authority and return the authority's available capital to three hundred fifty million dollars ($350,000,000), as determined by the board.

SEC. 8. Section 10089.33 of the Insurance Code is amended to read:

10089.33. (a) If the average daily balance of the authority's available capital exceeds six billion dollars ($6,000,000,000) for the last 180 days of any calendar year, the board shall relieve all participating insurers of their obligation to pay additional earthquake loss assessments under Section 10089.30, by an aggregate amount equal to the amount of available capital in excess of six billion dollars ($6,000,000,000). Each December 31 thereafter, the board shall further reduce the aggregate assessment authorized under Section 10089.30 by the net increase in available capital in excess of the previous levels of available capital at which a reduction in the aggregate Section 10089.30 assessment was made. No reduction pursuant to this subdivision shall exceed 15 percent of the original aggregate Section 10089.30 assessment in any year of operation of the authority.

(b) Commencing April 1, 2010, and on each April 1 thereafter, but only in years that such relief is authorized by this subdivision, the board shall reduce the combined assessment obligation of all participating insurers under Section 10089.31 by 5 percent of the maximum aggregate Section 10089.31 assessment authorized as of January 1, 2009, as provided in this subdivision. Each year of Section 10089.31 assessment reduction is referred to in this subdivision as an "assessment-reduction year." Assessment reductions shall take place as follows:

(1) Unless the authority has made payments and established appropriate reserves for claims and claim expenses, including for losses incurred but not reported, that in the aggregate exceeded five hundred million dollars ($500,000,000) on account of a single earthquake event commencing in 2009, as certified by the authority's consulting actuary and accepted by the board, and the authority's available capital as of January 1, 2010, did not exceed the authority's available capital as of December 1, 2008, then effective April 1, 2010, the maximum aggregate Section 10089.31 assessment shall be reduced by an amount equal to the sum of an amount equal to 5 percent of the initial maximum aggregate Section 10089.31 assessment amount and an amount equal to the retained earnings differential, and 2009 shall be an assessment-reduction year.

(2) Unless the authority has made payments and established appropriate reserves for claims and claim expenses, including for losses incurred but not reported, that in the aggregate exceeded five hundred million dollars ($500,000,000) on account of a single earthquake event commencing in 2010, as certified by the authority's consulting actuary and accepted by the board and the authority's available capital as of

January 1, 2011, did not exceed the authority's available capital as of December 1, 2008, then effective April 1, 2011, the maximum aggregate Section 10089.31 assessment shall be reduced by an amount equal to the sum of an amount equal to 5 percent of the initial maximum aggregate Section 10089.31 assessment amount and an amount equal to the retained earnings differential, and 2010 shall be an assessment-reduction year.

(3) Beginning in 2012 and each year thereafter, unless the authority made payments and established appropriate reserves for claims and claim expenses, including for losses incurred but not reported, that in the aggregate exceeded five hundred million dollars ($500,000,000) on account of all earthquake events commencing in the preceding year, as certified by the authority's consulting actuary and accepted by the board and the authority's available capital as of January 1 of that year did not exceed the authority's available capital as of December 1, 2008, then effective April 1 of that year, the maximum aggregate Section 10089.31 assessment shall be reduced by an amount equal to the sum of an amount equal to 5 percent of the initial maximum aggregate Section 10089.31 assessment amount and an amount equal to the retained earnings differential, and the preceding year shall be an assessment-reduction year.

(4) If through operation of this subdivision a year is not deemed an assessment-reduction year, no subsequent year shall be an assessment reduction year unless and until either the authority's available capital as of a subsequent April 1 exceeds the authority's available capital as of December 1, 2008; or the limitation established in paragraph (5), below, occurs.

(5) No more than two annual periods may be deemed not to constitute assessment-reduction years.

(6) Effective on the day after the last day of the 10th assessment-reduction year authorized by the board, the remaining maximum aggregate Section 10089.31 assessment shall be reduced to zero.

(7) As used in this section, "retained earnings differential" means the positive dollar-amount difference between: (A) the authority's positive one-year retained-earnings growth for the preceding calendar year, minus (B) the authority's capacity growth for the preceding calendar year, both calculated as of December 31. As used in this paragraph, "one-year retained-earnings growth" means the difference between the authority's cumulative retained earnings at December 31 of the preceding calendar year and the authority's cumulative retained earnings at December 31 of the year before the preceding calendar year, calculated in accordance with generally accepted accounting principles as of the preceding December 31. As used in this paragraph, the term "capacity growth" is

the one-year amount of purchased risk transfer, such as reinsurance, or borrowed risk transfer such as bonds, put in place in the authority's financial structure to account for the authority's aggregate exposure growth over the preceding year ending December 31. The board shall be authorized and entitled, in its sole discretion, to make all final decisions regarding the authority's level of financial strength and security and the authority's choice and use of financing and risk-transfer mechanisms. As used in this paragraph, the term "aggregate exposure" means the aggregate of the limits of liability under all coverages of all earthquake insurance policies issued by the authority.

(c) In no event shall the board reinstate, in whole or in part, any assessment obligation it has reduced pursuant to this section.

SEC. 8. The provisions of this act shall become operative on July 1, 2008.

CHAPTER 304

An act to amend Section 60424 of the Education Code, relating to instructional materials.

[Approved by Governor October 5, 2007. Filed with Secretary of State October 5, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 60424 of the Education Code is amended to read:

60424. This chapter shall be administered for purposes of funding as if it had been operative at the beginning of the 2007–08 fiscal year and shall become operative on January 1, 2008. This chapter shall become inoperative on July 1, 2013, and, as of January 1, 2014, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2014, deletes or extends the dates on which it becomes operative and is repealed.

CHAPTER 305

An act to add Sections 2138.5 and 18111 to the Elections Code, relating to elections.

[Approved by Governor October 5, 2007. Filed with
Secretary of State October 5, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 2138.5 is added to the Elections Code, to read:

2138.5. Notwithstanding any other provision of law, an affiant's driver's license number, identification card number, and social security number, contained on an affidavit of registration or voter registration card, are confidential and shall not be disclosed by an individual or organization that distributes voter registration cards pursuant to subdivision (b) of Section 2158, or by any person entrusted with an affidavit of registration from an elector pursuant to paragraph (1) of subdivision (b) of Section 2158. However, this section shall not be construed to prohibit a person entrusted with an affidavit of registration from an elector pursuant to paragraph (1) of subdivision (b) of Section 2158 from returning that affidavit to the person or organization that distributed the voter registration card pursuant to subdivision (b) of Section 2158.

SEC. 2. Section 18111 is added to the Elections Code, to read:

18111. Any person, individual, or organization that knowingly violates Section 2138.5 is guilty of an infraction, punishable by a fine not to exceed five hundred dollars ($500). Prosecution for a violation of Section 2138.5 shall not prohibit prosecution under any other applicable provision of law.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CHAPTER 306

An act to amend Section 25114 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor October 5, 2007. Filed with
Secretary of State October 5, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 25114 of the Revenue and Taxation Code is amended to read:

25114. (a) The Franchise Tax Board, for purposes of administering the provisions of this article, shall examine all returns filed by taxpayers subject to these provisions.

(b) (1) In any case of two or more organizations, trades, or businesses, whether or not organized in the United States and whether or not affiliated, owned or controlled directly or indirectly by the same interests, the Franchise Tax Board may distribute, apportion, or allocate gross income, deductions, credits, or allowances between or among these organizations, trades, or businesses, if the board determines that the distribution, apportionment, or allocation is necessary in order to prevent evasion of taxes or clearly to reflect the income of any of these organizations, trades, or businesses. In the case of any transfer, or license, of intangible property, within the meaning of Section 936(h)(3)(B) of the Internal Revenue Code, the income with respect to that transfer or license shall be commensurate with the income attributable to the intangible property.

(2) In making distributions, apportionments, and allocations under this section, the Franchise Tax Board shall generally follow the rules, regulations, and procedures of the Internal Revenue Service in making audits under Section 482 of the Internal Revenue Code. Any of these rules, regulations, and procedures adopted by the Franchise Tax Board shall not be subject to review by the Office of Administrative Law.

(3) If the Internal Revenue Service has conducted a detailed audit pursuant to Section 482 of the Internal Revenue Code or Subchapter N of Chapter 1 of Subtitle A of the Internal Revenue Code and has made adjustments pursuant to those provisions, it shall be presumed, to the extent that the provisions relate to the determination of the amount of income and factors required to be taken into account pursuant to Section 25110, that no further adjustments are necessary for this state's purposes. If the Internal Revenue Service has conducted a detailed audit pursuant to Section 482 of the Internal Revenue Code or Subchapter N of Chapter 1 of Subtitle A of the Internal Revenue Code and has made or proposed no adjustments to the transactions examined, it shall be presumed, to the extent that the provisions relate to the determination of the amount of income and factors required to be taken into account pursuant to Section 25110, that no adjustment is necessary for this state's purposes. These presumptions apply to all Internal Revenue Service audit determinations, including determinations made by the Appeals and Competent Authority. These presumptions shall be overcome if the Franchise Tax Board or

the taxpayer demonstrates that an adjustment or a failure to make an adjustment was erroneous, if it demonstrates that the results of such an adjustment would produce a minimal tax change for federal purposes because of correlative or offsetting adjustments or for other reasons, or if substantially the same federal tax result was obtained under other sections of the Internal Revenue Code. No inference shall be drawn from an Internal Revenue Service failure to audit international transactions pursuant to Section 482 of the Internal Revenue Code or Subchapter N of Chapter 1 of Subtitle A of the Internal Revenue Code and it shall not be presumed that any of those transactions were correctly reported.

(c) The amendments made to this section by the act adding this subdivision shall apply to examinations commenced by the Franchise Tax Board on or after the effective date of that act. An examination will be considered commenced when a taxpayer is first contacted by the Franchise Tax Board concerning any examination with respect to the taxpayer's return.

CHAPTER 307

An act to amend Section 8778 of, and to add Section 8778.5 to, the Health and Safety Code, relating to cemeteries.

[Approved by Governor October 5, 2007. Filed with Secretary of State October 5, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 8778 of the Health and Safety Code is amended to read:

8778. The following shall be eligible investments for all special care trusts:

(a) Bonds of the United States or this state, or of any county, city, or city and county in this state.

(b) Bonds that are legal investments for commercial banks in this state.

(c) Certificates of deposit or other interest-bearing accounts in any bank in this state insured by the Federal Deposit Insurance Corporation.

(d) Investment certificates or shares in any state or federally chartered savings and loan association insured by the Federal Savings and Loan Insurance Corporation.

(e) Investments in first trust deeds on improved real estate, provided that the loans require monthly amortization of principal and interest and

are fully amortized within 30 years or the term of the loan, whichever comes first. No loan shall be made to the cemetery authority, to the director, officer, or stockholder of a cemetery authority, or trustees of the special care funds, or to partners, relatives, agents, or employees thereof.

(f) Any investment that is lawful for endowment care funds under Sections 8751 and 8751.1.

SEC. 2. Section 8778.5 is added to the Health and Safety Code, to read:

8778.5. Each special care trust fund established pursuant to this article shall be administered in compliance with the following requirements:

(a) (1) The board of trustees shall honor a written request of revocation by the trustor within 30 days upon receipt of the written request.

(2) Except as provided in paragraph (3), the board of trustees upon revocation of a special care trust may assess a revocation fee on the earned income of the trust only, the amount of which shall not exceed 10 percent of the trust corpus, as set forth in subdivision (c) of Section 2370 of Title 16 of the California Code of Regulations.

(3) If, prior to or upon the death of the beneficiary of a revocable special care trust, the board of trustees is unable to perform the services of the special care trust fund agreement, the board of trustees shall pay the entire trust corpus and all earned income to the beneficiary or trustor, or the legal representative of either the beneficiary or trustor, without the imposition of a revocation fee.

(b) Notwithstanding subdivision (d) of Section 2370 of Title 16 of the California Code of Regulations, the board of trustees may charge an annual fee for administering a revocable special care trust fund, which may be recovered by administrative withdrawals from current trust income, but the total administrative withdrawals in any year shall not exceed 4 percent of the trust balance.

(c) Notwithstanding Section 8785, any person, partnership, or corporation who violates this section shall be subject to disciplinary action as provided in Article 6 (commencing with Section 9725) of Chapter 19 of Division 3 of the Business and Professions Code, or by a civil fine not exceeding five hundred dollars ($500), or by both, as determined by the Cemetery and Funeral Bureau and shall not be guilty of a crime.

CHAPTER 308

An act to amend Section 1799.111 of the Health and Safety Code, relating to health facilities.

[Approved by Governor October 5, 2007. Filed with Secretary of State October 5, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 1799.111 of the Health and Safety Code is amended to read:

1799.111. (a) A licensed general acute care hospital, as defined by subdivision (a) of Section 1250, that is not a county-designated facility pursuant to Section 5150 of the Welfare and Institutions Code, a licensed acute psychiatric hospital, as defined in subdivision (b) of Section 1250, that is not a county-designated facility pursuant to Section 5150 of the Welfare and Institutions Code, licensed professional staff of those hospitals, or any physician and surgeon, providing emergency medical services in any department of those hospitals to a person at the hospital shall not be civilly or criminally liable for detaining a person who is subject to detention pursuant to Section 5150 of the Welfare and Institutions Code, if all of the following conditions exist during the detention:

(1) The person cannot be safely released from the hospital because, in the opinion of the treating physician and surgeon, or a clinical psychologist with the medical staff privileges, clinical privileges, or professional responsibilities provided in Section 1316.5, the person, as a result of a mental disorder, presents a danger to himself or herself, or others, or is gravely disabled. For purposes of this paragraph, "gravely disabled" means an inability to provide for his or her basic personal needs for food, clothing, or shelter.

(2) The hospital staff, treating physician and surgeon, or appropriate licensed mental health professional, have made, and documented, repeated unsuccessful efforts to find appropriate mental health treatment for the person.

(3) The person is not detained beyond 24 hours.

(4) There is probable cause for the detention.

(5) If the person is detained beyond eight hours, but less than 24 hours, all of the following additional conditions shall be met:

(A) A transfer for appropriate mental health treatment for the person has been delayed because of the need for continuous and ongoing care, observation, or treatment that the hospital is providing.

(B) In the opinion of the treating physician and surgeon, or a clinical psychologist with the medical staff privileges or professional responsibilities provided for in Section 1316.5, the person, as a result of a mental disorder, is still a danger to himself or herself, or others, or is gravely disabled, as defined in paragraph (1) of subdivision (a).

(b) In addition to the conditions set forth in subdivision (a), a licensed general acute care hospital, as defined by subdivision (a) of Section 1250 that is not a county-designated facility pursuant to Section 5150 of the Welfare and Institutions Code, a licensed acute psychiatric hospital as defined by subdivision (b) of Section 1250 that is not a county-designated facility pursuant to Section 5150 of the Welfare and Institutions Code, licensed professional staff of those hospitals, or any physician and surgeon, providing emergency medical services in any department of those hospitals to a person at the hospital shall not be civilly or criminally liable for the actions of a person detained up to 24 hours in those hospitals who is subject to detention pursuant to Section 5150 of the Welfare and Institutions Code after that person's release from the detention at the hospital, if all of the following conditions exist during the detention:

(1) The person has not been admitted to a licensed general acute care hospital or a licensed acute psychiatric hospital for evaluation and treatment pursuant to Section 5150 of the Welfare and Institutions Code.

(2) The release from the licensed general acute care hospital or the licensed acute psychiatric hospital is authorized by a physician and surgeon or a clinical psychologist with the medical staff privileges or professional responsibilities provided for in Section 1316.5, who determines, based on a face-to-face examination of the person detained, that the person does not present a danger to himself or herself or others and is not gravely disabled, as defined in paragraph (1) of subdivision (a). In order for this paragraph to apply to a clinical psychologist, the clinical psychologist shall have a collaborative treatment relationship with the physician and surgeon. The clinical psychologist may authorize the release of the person from the detention, but only after he or she has consulted with the physician and surgeon. In the event of a clinical or professional disagreement regarding the release of a person subject to the detention, the detention shall be maintained unless the hospital's medical director overrules the decision of the physician and surgeon opposing the release. Both the physician and surgeon and the clinical psychologist shall enter their findings, concerns, or objections in the person's medical record.

(c) Nothing in this section shall affect the responsibility of a general acute care hospital or an acute psychiatric hospital to comply with all state laws and regulations pertaining to the use of seclusion and restraint and psychiatric medications for psychiatric patients. Persons detained

under this section shall retain their legal rights regarding consent for medical treatment.

(d) A person detained under this section shall be credited for the time detained, up to 24 hours, in the event he or she is placed on a subsequent 72-hour hold pursuant to Section 5150 of the Welfare and Institutions Code.

(e) The amendments to this section made by the act adding this subdivision shall not be construed to limit any existing duties for psychotherapists contained in Section 43.92 of the Civil Code.

(f) Nothing in this section is intended to expand the scope of licensure of clinical psychologists.

CHAPTER 309

An act to amend Section 19442 of the Revenue and Taxation Code, relating to tax administration.

[Approved by Governor October 5, 2007. Filed with Secretary of State October 5, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 19442 of the Revenue and Taxation Code is amended to read:

19442. (a) It is the intent of the Legislature that the Franchise Tax Board, its staff, and the Attorney General pursue settlements as authorized under this section with respect to civil tax matters in dispute that are the subject of protests, appeals, or refund claims, consistent with a reasonable evaluation of the costs and risks associated with litigation of these matters.

(b) (1) Except as provided in paragraph (3) and subject to paragraph (2), the executive officer or chief counsel, if authorized by the executive officer, of the Franchise Tax Board may recommend to the Franchise Tax Board, itself, a settlement of any civil tax matter in dispute.

(2) No recommendation of settlement shall be submitted to the Franchise Tax Board, itself, unless and until that recommendation has been submitted by the executive officer or chief counsel to the Attorney General. Within 30 days of receiving that recommendation, the Attorney General shall review the recommendation and advise in writing the executive officer or chief counsel of the Franchise Tax Board of his or her conclusions as to whether the recommendation is reasonable from an overall perspective. The executive officer or chief counsel shall, with

each recommendation of settlement submitted to the Franchise Tax Board, itself, also submit the Attorney General's written conclusions obtained pursuant to this paragraph.

(3) (A) A settlement of any civil tax matter in dispute involving a reduction of tax or penalties in settlement, the total of which reduction of tax and penalties in settlement does not exceed seven thousand five hundred dollars ($7,500), may be approved by the executive officer and chief counsel, jointly. The executive officer shall notify the Franchise Tax Board, itself, of any settlement approved pursuant to this paragraph.

(B) On January 1 of each calendar year beginning on or after January 1, 2004, the Franchise Tax Board shall increase the amount specified in subparagraph (A) to the amount computed under this subparagraph. That adjustment shall be made as follows:

(i) The Department of Industrial Relations shall transmit annually to the Franchise Tax Board the percentage change in the California Consumer Price Index, as modified for rental equivalent homeownership for all items, from June of the prior calendar year to June of the current calendar year, no later than August 1 of the current calendar year.

(ii) The Franchise Tax Board shall then:

(I) Compute the percentage change in the California Consumer Price Index from the later of June 2003 or June of the calendar year prior to the last increase in the amount specified in subparagraph (A).

(II) Compute the inflation adjustment factor by adding 100 percent to the percentage change so computed, and converting the resulting percentage to the decimal equivalent.

(III) Multiply the amount specified in subparagraph (A) for the immediately preceding calendar year, as adjusted under this paragraph, by the inflation adjustment factor determined in subclause (II), and round off the resulting product to the nearest one hundred dollars ($100).

(c) Whenever a reduction of tax or penalties or total tax and penalties in settlement in excess of five hundred dollars ($500) is approved pursuant to this section, there shall be placed on file in the office of the executive officer of the Franchise Tax Board a public record with respect to that settlement. The public record shall include all of the following information:

(1) The name or names of the taxpayers who are parties to the settlement.

(2) The total amount in dispute.

(3) The amount agreed to pursuant to the settlement.

(4) A summary of the reasons why the settlement is in the best interests of the State of California.

(5) For any settlement approved by the Franchise Tax Board, itself, the Attorney General's conclusion as to whether the recommendation of settlement was reasonable from an overall perspective.

The public record shall not include any information that relates to any trade secret, patent, process, style of work, apparatus, business secret, or organizational structure, that if disclosed, would adversely affect the taxpayer or the national defense.

(d) The members of the Franchise Tax Board shall not participate in the settlement of tax matters pursuant to this section, except as provided in subdivision (e).

(e) (1) Any recommendation for settlement shall be approved or disapproved by the Franchise Tax Board, itself, within 45 days of the submission of that recommendation. Any recommendation for settlement that is not either approved or disapproved by the Franchise Tax Board, itself, within 45 days of the submission of that recommendation shall be deemed approved. Upon approval of a recommendation for settlement, the matter shall be referred back to the executive officer or chief counsel in accordance with the decision of the Franchise Tax Board.

(2) Disapproval of a recommendation for settlement shall be made only by a majority vote of the Franchise Tax Board. Where the Franchise Tax Board disapproves a recommendation for settlement, the matter shall be remanded to Franchise Tax Board staff for further negotiation, and may be resubmitted to the Franchise Tax Board, in the same manner and subject to the same requirements as the initial submission, at the discretion of the executive officer or chief counsel.

(f) (1) All settlements entered into pursuant to this section shall be final and nonappealable, except upon a showing of fraud or misrepresentation with respect to a material fact.

(2) A settlement may include matters that may otherwise be included in an agreement under Section 19441.

(3) Settlements pursuant to this section do not preclude assessments or refunds under Section 19059, 19060, or 19311 (relating to application of federal adjustments).

(g) (1) Any proceedings undertaken by the Franchise Tax Board itself pursuant to a settlement as described in this section shall be conducted in a closed session or sessions.

(2) Except as provided in subdivision (c), any settlement entered into pursuant to this section shall constitute confidential tax information for purposes of Article 2 (commencing with Section 19542) of Chapter 7.

(3) Notwithstanding any other provision of law, no evidence of an offer of settlement made during settlement negotiations is admissible in any adjudicative proceeding or civil action, including, without limitation, any appeal to the board, whether as affirmative evidence, by way of

impeachment, or for any other purpose, and no evidence of conduct or statements related to the settlement negotiations is admissible to prove liability for any tax, penalty, fee, or interest, except to the extent provided for in Section 1152 of the Evidence Code.

(4) A settlement approved by the Franchise Tax Board, itself, shall be final and conclusive, to the same extent as an agreement under Section 19441 approved by the Franchise Tax Board, itself.

(h) This section shall apply only to civil tax matters in dispute existing on or after the effective date of the act adding this subdivision.

(i) The Legislature finds that it is essential for fiscal purposes that the settlement program authorized by this section be expeditiously implemented. Accordingly, Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code shall not apply to any determination, rule, notice, or guideline established or issued by the Franchise Tax Board in implementing and administering the settlement program authorized by this section.

(j) The amendments made to this section by Section 1 of Chapter 258 of the Statutes of 2002 shall apply to any settlements approved on or after January 1, 2003.

(k) The amendments made to this section by the act adding this subdivision shall apply to any settlement negotiations entered into on or after the date of enactment, without regard to a taxable year.

CHAPTER 310

An act to amend Section 1 of Chapter 833 of the Statutes of 1988, relating to parks and recreation, and declaring the urgency thereof, to take effect immediately.

[Filed with Secretary of State October 8, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 1 of Chapter 833 of the Statutes of 1988 is amended to read:

Section 1. (a) Notwithstanding any other provision of law, provided all of the conditions specified in subdivision (b) are met, the County of San Bernardino may grant, pursuant to subdivision (a) of Section 5626 of the Public Resources Code, no more than nine acres for an easement for road purposes across lands within the Glen Helen Regional Park acquired with grant moneys received pursuant to the Roberti-Z'berg-Harris Urban Open-Space and Recreation Program Act,

Chapter 3.2 (commencing with Section 5620) of Division 5 of the Public Resources Code, and no more than seven acres for a fee interest in the property, or portion of that property, subject to an exchange for, or acquisition of, property of equal or greater recreational value, as determined by the Department of Parks and Recreation, and at no cost to the state. Any property acquired shall be utilized solely for park purposes, and shall be subject to all applicable requirements of the Roberti-Z'berg-Harris Urban Open-Space and Recreation Program Act.

(b) The County of San Bernardino may transfer parkland in Glen Helen Regional Park pursuant to subdivision (a), only if all of the following conditions are met:

(1) The county enters into an agreement with the acquiring entity, only after a public hearing, that requires the acquiring entity to provide substitute parkland of comparable characteristics and of substantially equal size located in an area that would allow for use of the substitute parkland by generally the same persons who currently use Glen Helen Regional Park.

(2) The county follows the public meeting and notification requirements described in Section 5406 of the Public Resources Code.

(3) The county submits to the Department of Parks and Recreation evidence of compliance with paragraphs (1) and (2), including, but not limited to, a copy of the recorded deed and title policy for, and a map of, the substitute parkland.

(4) The county submits to the Department of Parks and Recreation a revised map of Glen Helen Regional Park, with the revised acreage.

(5) The county prepares a detailed land plan showing the specific parcels of Glen Helen Regional Park that will be transferred, and demonstrates that there is no net loss in park acreage as a result of the transfer pursuant to this section.

(6) The transferred property is used only for development that is consistent with the county's general plan and consistent with public park purposes.

(7) The county adopts an ordinance at a public meeting that does all of the following:

(A) Identifies the property within Glen Helen Regional Park that is to be transferred and the property that the county will acquire to replace the transferred property.

(B) Makes a finding that the substitute parkland will be provided or paid for by the acquiring entity and will have acreage that is equal to or greater than the acreage of the property transferred.

(C) Makes a finding that the transfer does not diminish the environmental integrity or recreational value of Glen Helen Regional

Park and that the development is consistent with the county's general plan and public park purposes.

(D) Makes a finding that the substitute parkland will provide an equivalent or higher level of recreational and environmental service to the current users of Glen Helen Regional Park.

(E) Makes a finding that the county has obtained any required federal approval for transfer of the Glen Helen Regional Park property.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to authorize the completion of the transaction to create a road facilitating access to Glen Helen Regional Park and adjacent development at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 311

An act to add Section 14628 to the Government Code, relating to the State Capitol.

[Filed with Secretary of State October 8, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 14628 is added to the Government Code, to read:

14628. (a) The California State Sheriffs Search and Rescue Coordinators, or any successor entity, may plan and construct a memorial in the Capitol Historic Region, in consultation with the department, to honor California search-and-rescue volunteers who have died in the line of duty.

(b) The Search and Rescue Memorial Review Committee is hereby established and shall include as members all of the following:

(1) The Director of the Department of General Services, or his or her designee.

(2) The State Historic Preservation Officer, or his or her designee.

(3) A Member of the Assembly appointed by the Speaker of the Assembly.

(4) A Member of the Senate appointed by the Senate Committee on Rules.

(c) The committee shall consult with the California State Sheriffs Search and Rescue Coordinators to identify an appropriate location for the memorial in the Capitol Historic Region and review a memorial design.

(d) The department, in consultation with the California State Sheriffs Search and Rescue Coordinators, shall accomplish the following goals:

(1) Review of the preliminary design plans to identify potential maintenance concerns.

(2) Ensure Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.) compliance, and other safety concerns.

(3) Review and approval of proper California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) documents prepared for work at the designated historic property.

(4) Review of final construction documents to ensure that all requirements are met.

(5) Prepare the right-of-entry permit outlining the final area of work, final construction documents, construction plans, the contractor hired to perform the work, insurance, bonding, provisions for damage to state property, and inspection requirements.

(6) Prepare a maintenance agreement outlining the California State Sheriffs Search and Rescue Coordinators' responsibility for the long-term maintenance of the memorial due to aging, vandalism, or relocation.

(7) Inspect the construction performed by the contractor selected by the California State Sheriffs Search and Rescue Coordinators.

(e) If the California State Sheriffs Search and Rescue Coordinators undertake responsibility to construct a memorial under this section, it shall, in consultation with the department, establish a schedule for the design, construction, and dedication of the memorial, implement procedures to solicit designs for the memorial and devise a selection process for the choice of the design, and establish a program for the dedication of the memorial.

(f) The department and the Search and Rescue Memorial Review Committee shall approve the design of the memorial.

(g) If the California State Sheriffs Search and Rescue Coordinators undertake responsibility to construct a memorial under this section, it shall not begin construction of the memorial until the master plan of the State Capitol Park is approved and adopted by the Joint Committee on Rules and the Department of Finance has determined that sufficient private funding is available to construct and maintain the memorial.

(h) The planning, construction, and maintenance of the memorial shall be funded exclusively through private donations to a nonprofit

foundation, the Search and Rescue Memorial Foundation, to be established for that purpose.

(i) If the California State Sheriffs Search and Rescue Coordinators undertake responsibility to construct a memorial under this section, it shall sign a maintenance agreement with the state, as created under paragraph (6) of subdivision (d), to maintain the memorial with private contributions.

CHAPTER 312

An act to amend Section 11550 of, and to add Section 13997.7 to, the Government Code, and to amend Section 53545.13 of the Health and Safety Code, relating to state government, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Filed with Secretary of State October 8, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 11550 of the Government Code is amended to read:

11550. (a) Effective January 1, 1988, an annual salary of ninety-one thousand fifty-four dollars ($91,054) shall be paid to each of the following:

(1) Director of Finance.
(2) Secretary of Business, Transportation and Housing.
(3) Secretary of the Resources Agency.
(4) Secretary of California Health and Human Services.
(5) Secretary of State and Consumer Services.
(6) Commissioner of the California Highway Patrol.
(7) Secretary of the Department of Corrections and Rehabilitation.
(8) Secretary of Food and Agriculture.
(9) Secretary of Veterans Affairs.
(10) Secretary of Labor and Workforce Development.
(11) State Chief Information Officer.
(12) Secretary of Environmental Protection.

(b) The annual compensation provided by this section shall be increased in any fiscal year in which a general salary increase is provided for state employees. The amount of the increase provided by this section shall be comparable to, but shall not exceed, the percentage of the general salary increases provided for state employees during that fiscal year.

SEC. 2. Section 13997.7 is added to the Government Code, to read:

13997.7. (a) Notwithstanding any other provision of law, effective January 1, 2008, the Economic Adjustment Assistance Grant funded through the United States Economic Development Administration under Title IX of the Public Works and Economic Development Act of 1965 (Grant No. 07–19–02709 and 07–19–2709.1) shall be administered by the Secretary of Business, Transportation and Housing, and, for the purpose of state administration of this grant, the secretary shall be deemed to be the successor to the former Secretary of Technology, Trade and Commerce. The secretary may assign and contract administration of the grant to a public agency created pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1.

(b) On January 1, 2008, all federal moneys held in the Sudden and Severe Economic Dislocation Grant Account within the Special Deposit Fund are hereby transferred to the Small Business Expansion Fund created pursuant to Section 14030 of the Corporations Code for expenditure by the Business, Transportation and Housing Agency pursuant to Article 9 (commencing with Section 14070) of the Corporations Code for purposes of the Sudden and Severe Economic Dislocation Grant program, or other purposes permitted by the cognizant federal agency.

(c) All loan repayments received on or after January 1, 2008, for the Sudden and Severe Economic Dislocation Grant program loans issued pursuant to former Section 15327 (repealed by Section 1.8 of Chapter 229 of the Statutes of 2003 (AB 1757)) and this section, shall be deposited into the Small Business Expansion Fund and shall be available to the Business, Transportation and Housing Agency for expenditure pursuant to the provisions of Article 9 (commencing with Section 14070) of the Corporations Code for the Sudden and Severe Economic Dislocation Grant program, or other purposes permitted by the cognizant federal agency.

SEC. 3. Section 53545.13 of the Health and Safety Code is amended to read:

53545.13. (a) The Infill Incentive Grant Program of 2007 is hereby established to be administered by the department.

(b) Upon appropriation of funds by the Legislature for the purpose of implementing paragraph (1) of subdivision (b) of Section 53545, the department shall establish and administer a competitive grant program to allocate those funds to selected capital improvement projects that are an integral part of, or necessary to facilitate the development of, a qualifying infill project or a qualifying infill area.

(c) A qualifying infill project or qualifying infill area for which a capital improvement project grant may be awarded shall meet all of the following conditions:

(1) Be located in a city, county, or city and county, in which the general plan of the city, county, or city and county, has an adopted housing element that has been found by the department, pursuant to Section 65585 of the Government Code, to be in compliance with the requirements of Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code.

(2) Include not less than 15 percent of affordable units, as follows:

(A) For projects that contain both rental and ownership units, units of either or both product types may be included in the calculation of the affordability criteria.

(B) (i) To the extent included in a project grant application, for the purpose of calculating the percentage of affordable units, the department may consider the entire master development in which the development seeking grant funding is included.

(ii) Where applicable, an applicant may include a replacement housing plan to ensure that dwelling units housing persons and families of low or moderate income are not removed from the low- and moderate-income housing market. Residential units to be replaced may not be counted toward meeting the affordability threshold required for eligibility for funding under this section.

(C) For the purposes of this subdivision, "affordable unit" means a unit that is made available at an affordable rent, as defined in Section 50053, to a household earning no more than 60 percent of the area median income or at an affordable housing cost, as defined in Section 50052.5, to a household earning no more than 120 percent of the area median income. Rental units shall be subject to a recorded covenant that ensures affordability for at least 55 years. Ownership units shall initially be sold to and occupied by a qualified household, and subject to a recorded covenant that includes either a resale restriction for at least 30 years or equity sharing upon resale.

(D) A qualifying infill project or qualifying infill area for which a disposition and development agreement or other project- or area-specific agreement between the developer and the local agency having jurisdiction over the project has been executed on or before the effective date of the act adding this section, shall be deemed to meet the affordability requirement of this paragraph (2) if the agreement includes affordability covenants that subject the project or area to the production of affordable units for very low, low-, or moderate-income households.

(3) Include average residential densities on the parcels to be developed that are equal to or greater than the densities described in subparagraph (B) of paragraph (3) of subdivision (c) of Section 65583.2 of the Government Code, except that a project located in a rural area as defined

in Section 50199.21 shall include average residential densities on the parcels to be developed of at least 10 units per acre.

(4) Be located in an area designated for mixed-use or residential development pursuant to one of the following adopted plans:

(A) A general plan adopted pursuant to Section 65300 of the Government Code.

(B) A project area redevelopment plan approved pursuant to Section 33330.

(C) A regional blueprint plan as defined in the California Regional Blueprint Planning Program administered by the Business, Transportation and Housing Agency, or a regional plan as defined in Section 65060.7 of the Government Code.

(5) For qualifying infill projects or qualifying infill areas located in a redevelopment project area, meet the requirements contained in subdivision (a) of Section 33413.

(d) In its review and ranking of applications for the award of capital improvement project grants, the department shall rank the affected qualifying infill projects and qualifying infill areas based on the following priorities:

(1) Project readiness, which shall include all of the following:

(A) A demonstration that the project or area development can complete environmental review and secure necessary entitlements from the local jurisdiction within a reasonable period of time following the submittal of a grant application.

(B) A demonstration that the eligible applicant can secure sufficient funding commitments derived from sources other than this part for the timely development of a qualifying infill project or development of a qualifying infill area.

(C) A demonstration that the project or area development has sufficient local support to achieve the proposed improvement.

(2) The depth and duration of the affordability of the housing proposed for a qualifying infill project or qualifying infill area.

(3) The extent to which the average residential densities on the parcels to be developed exceed the density standards contained in paragraph (3) of subdivision (c).

(4) The qualifying infill project's or qualifying infill area's inclusion of, or proximity or accessibility to, a transit station or major transit stop.

(5) The proximity of housing to parks, employment or retail centers, schools, or social services.

(6) The qualifying infill project or qualifying infill area location's consistency with an adopted regional blueprint plan or other adopted regional growth plan intended to foster efficient land use.

(e) In allocating funds pursuant to this section, the department, to the maximum extent feasible, shall ensure a reasonable geographic distribution of funds.

(f) Funds awarded pursuant to this section shall supplement, not supplant, other available funding.

(g) (1) The department shall adopt guidelines for the operation of the grant program, including guidelines to ensure the tax-exempt status of the bonds issued pursuant to this part, and may administer the program under those guidelines.

(2) The guidelines shall include provisions for the reversion of grant awards that are not encumbered within four years of the fiscal year in which an award was made, and for the recapture of grants awarded, but for which development of the related housing units has not progressed in a reasonable period of time from the date of the grant award, as determined by the department.

(3) The guidelines shall not be subject to the requirements of Chapter 3.5 (commencing with Section 11340) of Division 3 of Title 2 of the Government Code.

(h) For each fiscal year within the duration of the grant program, the department shall include within the report to the Legislature, required by Section 50408, information on its activities relating to the grant program. The report shall include, but is not limited to, the following information:

(1) A summary of the projects that received grants under the program for each fiscal year that grants were awarded.

(2) The description, location, and estimated date of completion for each project that received a grant award under the program.

(3) An update on the status of each project that received a grant award under the program, and the number of housing units created or facilitated by the program.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to compensate certain state officials, authorize a successor state agency to administer a federal grant program, and modify the provisions of a competitive grant program as quickly as possible, it is necessary for this act to take effect immediately.

CHAPTER 313

An act to amend Sections 8879.50, 8879.51, 8879.58, and 8879.59 of, and to repeal and add Section 16965 of, the Government Code, to amend and renumber Section 39265.02 of the Health and Safety Code, and to repeal and add Section 7103 of the Revenue and Taxation Code, relating to transportation, and declaring the urgency thereof, to take effect immediately.

[Filed with Secretary of State October 8, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 8879.50 of the Government Code is amended to read:

8879.50. (a) As used in this chapter and in Chapter 12.49 (commencing with Section 8879.20), the following terms have the following meanings:

(1) "Commission" means the California Transportation Commission.

(2) "Department" means the Department of Transportation.

(3) "Administrative agency" means the state agency responsible for programming bond funds made available by Chapter 12.49 (commencing with Section 8879.20), as specified in subdivision (c).

(4) Unless otherwise specified in this chapter, "project" includes equipment purchase, construction, right-of-way acquisition, and project delivery costs.

(5) "Recipient agency" means the recipient of bond funds made available by Chapter 12.49 (commencing with Section 8879.20) that is responsible for implementation of an approved project.

(6) "Fund" shall have the meaning as defined in subdivision (c) of Section 8879.20.

(b) Administrative costs, including audit and program oversight costs for agencies, commissions, or departments administering programs funded pursuant to this chapter, recoverable by bond funds shall not exceed 3 percent of the program's cost.

(c) The administrative agency for each bond account is as follows:

(1) The commission is the administrative agency for the Corridor Mobility Improvement Account; the Trade Corridors Improvement Fund; the Transportation Facilities Account; the State Route 99 Account; the State and Local Partnership Program Account; the Local Bridge Seismic Retrofit Account; the Highway-Railroad Crossing Safety Account; and the Highway Safety, Rehabilitation and Preservation Account.

(2) The Office of Homeland Security and the Office of Emergency Services are the administrative agencies for the Port and Maritime Security Account and the Transit System Safety, Security, and Disaster Response Account.

(3) The department is the administrative agency for the Public Transportation Modernization, Improvement, and Service Enhancement Account.

(d) The administrative agency may not approve project fund allocations for any project until the recipient agency provides a project funding plan that demonstrates that the funds are expected to be reasonably available and sufficient to complete the project. The administrative agency may approve funding for useable project segments only if the benefits associated with each individual segment are sufficient to meet the objectives of the program from which the individual segment is funded.

(e) Guidelines adopted by the administrative agency pursuant to this chapter and Chapter 12.49 (commencing with Section 8879.20) are intended to provide internal guidance for the agency and shall be exempt from the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3), and shall do all of the following:

(1) Provide for the audit of project expenditures and outcomes.

(2) Require that the useful life of the project be identified as part of the project nomination process.

(3) Require that project nominations have project delivery milestones, including, but not limited to, start and completion dates for environmental clearance, land acquisition, design, construction bid award, construction completion, and project closeout, as applicable.

(f) (1) As a condition for allocation of funds to a specific project under Chapter 12.49 (commencing with Section 8879.20), the administrative agency shall require the recipient agency to report, on a semiannual basis, on the activities and progress made toward implementation of the project. The administrative agency shall forward the report to the Department of Finance by means approved by the Department of Finance. The purpose of the report is to ensure that the project is being executed in a timely fashion, and is within the scope and budget identified when the decision was made to fund the project. If it is anticipated that project costs will exceed the approved project budget, the recipient agency shall provide a plan to the administrative agency for achieving the benefits of the project by either downscoping the project to remain within budget or by identifying an alternative funding source to meet the cost increase. The administrative agency may either approve the corrective plan or direct the recipient agency to modify its plan.

(2) Within six months of the project becoming operable, the recipient agency shall provide a report to the administrative agency on the final costs of the project as compared to the approved project budget, the project duration as compared to the original project schedule as of the date of allocation, and performance outcomes derived from the project compared to those described in the original application for funding. The administrative agency shall forward the report to the Department of Finance by means approved by the Department of Finance.

SEC. 2. Section 8879.51 of the Government Code is amended to read:

8879.51. (a) Funds for the program contained in subdivision (b) of Section 8879.23 shall be deposited in the State Route 99 Account, which is hereby created in the fund. The funds in the account shall be available to the department, as allocated by the commission, upon appropriation by the Legislature.

(b) The commission shall include in its annual report to the Legislature, required by Section 14535, a summary of its activities relating to the administration of this program. The summary should, at a minimum, include a description and the location of the projects contained in the program, the amount of funds allocated to each project, the status of each project, and a description of the improvements the program is achieving.

SEC. 3. Section 8879.58 of the Government Code is amended to read:

8879.58. (a) (1) No later than September 1 of the first fiscal year in which the Legislature appropriates funds from the Transit System Safety, Security, and Disaster Response Account, and no later than September 1 of each fiscal year thereafter in which funds are appropriated from that account, the Controller shall develop and make public a list of eligible agencies and transit operators and the amount of funds each is eligible to receive from the account pursuant to subdivision (a) of Section 8879.57. It is the intent of the Legislature that funds allocated to specified recipients pursuant to this section provide each recipient with the same proportional share of funds as the proportional share each received from the allocation of State Transit Assistance funds, pursuant to Sections 99313 and 99314 of the Public Utilities Code, over fiscal years 2004–05, 2005–06, and 2006–07.

(2) In establishing the amount of funding each eligible recipient is to receive under subdivision (a) of Section 8879.57 from appropriated funds to be allocated based on Section 99313 of the Public Utilities Code, the Controller shall make the following computations:

(A) For each eligible recipient, compute the amounts of State Transit Assistance funds allocated to that recipient pursuant to Section 99313

of the Public Utilities Code during the 2004–05, 2005–06, and 2006–07 fiscal years.

(B) Compute the total statewide allocation of State Transit Assistance funds pursuant to Section 99313 of the Public Utilities Code during the 2004–05, 2005–06, and 2006–07 fiscal years.

(C) Divide subparagraph (A) by subparagraph (B).

(D) For each eligible recipient, multiply the allocation factor computed pursuant to subparagraph (C) by 50 percent of the amount available for allocation pursuant to subdivision (a) of Section 8879.57.

(3) In establishing the amount of funding each eligible recipient is eligible to receive under subdivision (a) of Section 8879.57 from funds to be allocated based on Section 99314 of the Public Utilities Code, the Controller shall make the following computations:

(A) For each eligible recipient, compute the amounts of State Transit Assistance funds allocated to that recipient pursuant to Section 99314 of the Public Utilities Code during the 2004–05, 2005–06, and 2006–07 fiscal years.

(B) Compute the total statewide allocation of State Transit Assistance funds pursuant to Section 99314 of the Public Utilities Code during the 2004–05, 2005–06, and 2006–07 fiscal years.

(C) Divide subparagraph (A) by subparagraph (B).

(D) For each eligible recipient, multiply the allocation factor computed pursuant to subparagraph (C) by 50 percent of the amount available for allocation pursuant to subdivision (a) of Section 8879.57.

(4) The Controller shall notify eligible recipients of the amount of funding each is eligible to receive pursuant to subdivision (a) of Section 8879.57 for the duration of time that these funds are made available for these purposes based on the computations pursuant to subparagraph (D) of paragraph (2) and subparagraph (D) of paragraph (3).

(b) Prior to seeking a disbursement of funds for an eligible project, an agency or transit operator on the public list described in paragraph (1) of subdivision (a) shall submit to OHS a description of the project it proposes to fund with its share of funds from the account. The description shall include all of the following:

(1) A summary of the proposed project that describes the safety, security, or emergency response benefit that the project intends to achieve.

(2) That the useful life of the project shall not be less than the required useful life for capital assets specified in subdivision (a) of Section 16727.

(3) The estimated schedule for the completion of the project.

(4) The total cost of the proposed project, including identification of all funding sources necessary for the project to be completed.

(c) After receiving the information required to be submitted under subdivision (b), OHS shall review the information to determine all of the following:

(1) The project is consistent with the purposes described in subdivision (h) of Section 8879.23.

(2) The project is an eligible capital expenditure, as described in subdivision (a) of Section 8879.57.

(3) The project is a capital improvement that meets the requirements of paragraph (2) of subdivision (b).

(4) The project, or a useful component thereof, is, or will become fully funded with an allocation of funds from the Transit System Safety, Security, and Disaster Response Account.

(d) (1) Upon conducting the review required in subdivision (c) and determining that a proposed project meets the requirements of that subdivision, OHS shall, on a quarterly basis, provide the Controller with a list of projects and the sponsoring agencies or transit operators eligible to receive an allocation from the account.

(2) The list of projects submitted to the Controller for allocation for any one fiscal year shall be constrained by the total amount of funds appropriated by the Legislature for the purposes of this section for that fiscal year.

(3) For a fiscal year in which the number of projects submitted for funding under this section exceeds available funds, OHS shall prioritize projects contained on the lists submitted pursuant to paragraph (1) so that (A) projects addressing the greatest risks to the public have the highest priority and (B) to the maximum extent possible, the list reflects a distribution of funding that is geographically balanced.

(e) Upon receipt of the information from OHS required by subdivision (d), the Controller's office shall commence any necessary actions to allocate funds to eligible agencies and transit operators sponsoring projects on the list of projects, including, but not limited to, seeking the issuance of bonds for that purpose. The total allocations to any one eligible agency or transit operator shall not exceed that agencies or transit operator's share of funds from the account pursuant to the formula contained in subdivision (a) of Section 8879.57.

(f) The Controller's office may, pursuant to Section 12410, use its authority to audit the use of state bond funds on projects receiving an allocation under this section. Each eligible agency or transit operator sponsoring a project subject to an audit shall provide any and all data requested by the Controller's office in order to complete the audit. The Controller's office shall transmit copies of all completed audits to OHS and to the policy committees of the Legislature with jurisdiction over transportation and budget issues.

SEC. 4. Section 8879.59 of the Government Code is amended to read:

8879.59. (a) For funds appropriated from the Transit System Safety, Security, and Disaster Response Account for allocation to transit agencies eligible to receive funds pursuant to subdivision (b) of Section 8879.57, the Office of Emergency Services (OES) shall administer a grant application and award program for those transit agencies.

(b) Funds awarded to transit agencies pursuant to this section shall be for eligible capital expenditures as described in subdivision (b) of Section 8879.57.

(c) Prior to allocating funds to projects pursuant to this section, OES shall adopt guidelines to establish the criteria and process for the distribution of funds described in this section. Prior to adopting the guidelines, OES shall hold a public hearing on the proposed guidelines.

(d) For each fiscal year in which funds are appropriated for the purposes of this section, OES shall issue a notice of funding availability no later than October 1.

(e) No later than December 1 of each fiscal year in which the notice in subdivision (d) is issued, eligible transit agencies may submit project nominations for funding to OES for its review and consideration. Project nominations shall include all of the following:

(1) A description of the project, which shall illustrate the physical components of the project and the security or emergency response benefit to be achieved by the completion of the project.

(2) Identification of all nonbond sources of funding committed to the project.

(3) An estimate of the project's full cost and the proposed schedule for the project's completion.

(f) No later than February 1, OES shall select eligible projects to receive grants under this section. Grants awarded to eligible transit agencies pursuant to subdivision (b) of Section 8879.57 shall be for eligible capital expenditures, as described in paragraph (2) of subdivision (b) of that section.

SEC. 5. Section 16965 of the Government Code is repealed.

SEC. 6. Section 16965 is added to the Government Code, to read:

16965. (a) The Transportation Debt Service Fund is hereby created in the State Treasury. Moneys in the fund shall, among other things, as provided in this section, be dedicated to payment of debt service on bonds including bonds issued pursuant to the Clean Air and Transportation Improvement Act of 1990 (Part 11.5 (commencing with Section 99600) of Division 10 of the Public Utilities Code), the Passenger Rail and Clean Air Bond Act of 1990 (Chapter 17 (commencing with Section 2700) of Division 3 of the Streets and Highways Code), and the

Seismic Retrofit Bond Act of 1996 (Chapter 12.48 (commencing with Section 8879) of Division 1 of Title 2). If the moneys in the fund are insufficient to pay the balance of the debt consistent with existing obligations, the General Fund will be used to pay the balance of any debt service.

(b) (1) From moneys transferred to the fund pursuant to subdivision (b) of Section 7103 of the Revenue and Taxation Code, the Director of Finance is hereby authorized to reimburse the General Fund for up to three hundred thirty-nine million two hundred eighty-nine thousand three hundred forty-five dollars ($339,289,345) for the purpose of offsetting the cost of debt service payments made from the General Fund during the 2007–08 fiscal year for public transportation-related general obligation bond expenditures in the following amounts:

(A) Clean Air and Transportation Improvement Act of 1990, one hundred twenty-three million nine hundred seventy-three thousand four hundred ninety-three dollars ($123,973,493).

(B) Passenger Rail and Clean Air Bond Act of 1990, seventy million nine hundred eighty-three thousand three hundred sixty-three dollars ($70,983,363).

(C) Seismic Retrofit Bond Act of 1996, one hundred forty-four million three hundred thirty-two thousand four hundred eighty-nine dollars ($144,332,489).

(2) From moneys transferred to the fund pursuant to subdivision (b) of Section 7103 of the Revenue and Taxation Code, the Director of Finance is hereby authorized to reimburse the General Fund in the 2007–08 fiscal year for two hundred million dollars ($200,000,000) for the purpose of offsetting the cost of debt service payments made in prior fiscal years from the General Fund for public transportation-related general obligation bond expenditures.

SEC. 7. Section 39265.02 of the Health and Safety Code is amended and renumbered to read:

39625.02. (a) As used in this chapter and in Chapter 12.49 (commencing with Section 8879.20) of Division 1 of Title 2 of the Government Code, the following terms have the following meanings:

(1) "Administrative agency" means the state agency responsible for programming bond funds made available by Chapter 12.49 (commencing with Section 8879.20) of Division 1 of Title 2 of the Government Code, as specified in subdivision (c).

(2) Unless otherwise specified in this chapter, "project" includes equipment purchase, right-of-way acquisition, and project delivery costs.

(3) "Recipient agency" means the recipient of bond funds made available by Chapter 12.49 (commencing with Section 8879.20) of

Division 1 of Title 2 of the Government Code that is responsible for implementation of an approved project.

(4) "Fund" shall have the meaning as defined in subdivision (c) of Section 8879.20 of the Government Code.

(b) Administrative costs, including audit and program oversight costs for the agency administering the program funded pursuant to this chapter, recoverable by bond funds shall not exceed 5 percent of the program's costs.

(c) The State Air Resources Board is the administrative agency for the Goods Movement Emission Reduction Program pursuant to paragraph (2) of subdivision (c) of Section 8879.23 of the Government Code.

(d) The administrative agency may not approve project fund allocations for any project until the recipient agency provides a project funding plan that demonstrates that the funds are expected to be reasonably available and sufficient to complete the project. The administrative agency may approve funding for useable project segments only if the benefits associated with each individual segment are sufficient to meet the objectives of the program from which the individual segment is funded.

(e) Guidelines adopted by the administrative agency pursuant to this chapter and Chapter 12.49 (commencing with Section 8879.20) of Division 1 of Title 2 of the Government Code are intended to provide internal guidance for the agency and shall be exempt from the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of the Government Code), and shall do all of the following:

(1) Provide for audit of project expenditures and outcomes.

(2) Require that the useful life of the project be identified as part of the project nomination process.

(3) Require that project nominations have project delivery milestones, including, but not limited to, start and completion dates for environmental clearance, land acquisition, design, construction bid award, construction completion, and project closeout, as applicable.

(f) (1) As a condition for allocation of funds to a specific project under Chapter 12.49 (commencing with Section 8879.20), the administrative agency shall require the recipient agency to report, on a semiannual basis, on the activities and progress made toward implementation of the project. The administrative agency shall forward the report to the Department of Finance by means approved by the Department of Finance. The purpose of the report is to ensure that the project is being executed in a timely fashion, and is within the scope and budget identified when the decision was made to fund the project. If it is anticipated that project costs will exceed the approved project budget,

the recipient agency shall provide a plan to the administrative agency for achieving the benefits of the project by either downscoping the project to remain within budget or by identifying an alternative funding source to meet the cost increase. The administrative agency may either approve the corrective plan or direct the recipient agency to modify its plan.

(2) Within six months of the project becoming operable, the recipient agency shall provide a report to the administrative agency on the final costs of the project as compared to the approved project budget, the project duration as compared to the original project schedule as of the date of allocation, and performance outcomes derived from the project compared to those described in the original application for funding. The administrative agency shall forward the report to the Department of Finance by means approved by the Department of Finance.

SEC. 8. Section 7103 of the Revenue and Taxation Code is repealed.

SEC. 9. Section 7103 is added to the Revenue and Taxation Code, to read:

7103. (a) The Mass Transportation Fund is hereby created in the State Treasury. Upon appropriation by the Legislature, moneys in the Mass Transportation Fund may be used for, but shall not necessarily be limited to, the following transportation purposes:

(1) Payment of debt service on transportation bonds, or reimbursement to the General Fund for past debt service payments on transportation bonds.

(2) Funding of the Department of Developmental Services for regional center transportation.

(3) Reimbursement to the General Fund for payments made by the General Fund pursuant to subdivision (f) of Section 1 of Article XIX B of the California Constitution.

(4) Funding of home-to-school transportation, pursuant to Article 10 (commencing with Section 41850) of Chapter 5 of Part 24 of the Education Code, and Small School District Transportation, pursuant to Article 4.5 (commencing with Section 42290) of Chapter 7 of Part 24 of the Education Code.

(b) From moneys transferred to the fund pursuant to subparagraph (G) of paragraph (1) of subdivision (a) of Section 7102 in the 2007–08 fiscal year, the sum of five hundred thirty-nine million two hundred eighty-nine thousand three hundred forty-eight dollars ($539,289,348) shall be transferred to the Transportation Debt Service Fund, and the sum of eighty-two million six hundred seventy-eight thousand dollars ($82,678,000) may be reimbursed by the Director of Finance in the 2007–08 fiscal year for the purpose of offsetting payments made by the General Fund pursuant to subdivision (f) of Section 1 of Article XIX B of the California Constitution.

SEC. 10. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to make changes relative to provisions governing transportation funds to implement the Budget Act of 2007, it is necessary that this act take effect immediately.

CHAPTER 314

An act to amend Section 8879.65 of the Government Code, relating to transportation, and declaring the urgency thereof, to take effect immediately.

[Filed with Secretary of State October 8, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 8879.65 of the Government Code is amended to read:

8879.65. (a) Funds appropriated from the Local Street and Road Improvement, Congestion Relief, and Traffic Safety Account of 2006, established by subdivision (*l*) of Section 8879.23, shall be made available to the Controller for allocation to cities, counties, and a city and county. From bond funds appropriated in the 2007–08 fiscal year for cities, including a city and county, each city, and city and county, shall receive at least a minimum allocation of four hundred thousand dollars ($400,000), as described in subparagraph (B) of paragraph (1) of subdivision (*l*) of Section 8879.23. The remainder of the funds appropriated for cities, including a city and county, shall be allocated in the proportion described in subparagraph (B) of paragraph (1) of subdivision (*l*) of Section 8879.23. In no case shall a city, or a city and county, receive an allocation in excess of its total share, as described in subdivision (*l*) of Section 8879.23, except as described in subdivision (d).

(b) Prior to receiving an allocation of funds from the Controller in a fiscal year, an eligible local agency shall submit to the Department of Finance a list of projects expected to be funded with bond funds pursuant to an adopted city, county, or city and county budget. All projects proposed to be funded with funds from the account shall be included in a city, county, or city and county budget that is adopted by the applicable city council or board of supervisors at a regular public meeting. The list

of projects expected to be funded with bond funds shall include a description and the location of the proposed project, a proposed schedule for the project's completion, and the estimated useful life of the improvement. The project list shall not limit the flexibility of an eligible local agency to fund projects in accordance with local needs and priorities so long as the projects are consistent with subparagraph (B) of paragraph (1) of subdivision (*l*) of Section 8879.23.

(1) The Department of Finance shall report monthly to the Controller the eligible local agencies that have submitted a list of projects as described in this subdivision.

(2) Upon receipt of the information described in paragraph (1), the Controller shall allocate funds to those agencies that have submitted a list of projects, as reported by the Department of Finance.

(c) Each fiscal year upon expending funds from the account, a city, county, or city and county shall submit documentation to the Department of Finance which includes a description and location of each completed project, the amount of funds expended on the project, the completion date, and the project's estimated useful life. The documentation shall be forwarded to the department, in a manner and form approved by the department, at the end of each fiscal year until the funds in the account are exhausted. The department may post the information contained in the documentation on the department's official Web site.

(d) A city, county, or city and county receiving funds pursuant to this section shall have three fiscal years to expend the funds following the fiscal year in which the allocation was made by the Controller, and any funds not expended within that period shall be returned to the Controller and be reallocated to other cities, counties, or a city and county, as applicable, pursuant to the allocation formulas set forth in subparagraph (A) or (B) of paragraph (1) of subdivision (*l*) of Section 8879.23, but excluding the requirement for a minimum city allocation as described in subparagraph (B) of paragraph (1) of that subdivision and section.

(e) Subject to the requirements and conditions of this section, it is the intent of the Legislature to appropriate funds from the account so that the Controller may allocate the balance of these funds to eligible local agencies over the next four years, following the 2007–08 fiscal year. Nothing in this section shall prevent the Legislature from appropriating funds on a more expedited basis based on local agency need.

(f) The sum of three hundred fifty million dollars ($350,000,000) is hereby appropriated from funds in the Local Street and Road Improvement, Congestion Relief, and Traffic Safety Account of 2006 created pursuant to subdivision (*l*) of Section 8879.23, for allocation pursuant to this article, as an augmentation to the amount appropriated in Item 9350-104-6065 of the Budget Act of 2007. The total 2007–08

fiscal year appropriation of nine hundred fifty million dollars ($950,000,000) shall be allocated as follows: four hundred million dollars ($400,000,000) to counties and five hundred fifty million dollars ($550,000,000) to cities.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to make clarifying changes to provisions governing allocation of transportation funds as quickly as possible, it is necessary that this act take effect immediately.

CHAPTER 315

An act to amend Sections 31459, 31459.1, and 31528 of the Government Code, relating to county employees' retirement.

[Filed with Secretary of State October 8, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 31459 of the Government Code is amended to read:

31459. (a) In a county in which a board of investments has been established pursuant to Section 31520.2:

(1) As used in Sections 31453, 31453.5, 31454, 31454.1, 31454.5, 31472, 31510.1, 31510.3, 31510.6, 31588.1, 31589.1, 31591, 31592.3, 31594, 31595.1, 31595.9, 31596, 31596.1, 31601.1, 31607, 31625, 31784, and 31872, "board" means a board of investments.

(2) As used in the first paragraph of Section 31592.2, "board" means a board of investments.

(3) Sections 31510, 31510.4, 31510.8, 31522, 31523, 31524, 31525, 31528, 31529, 31529.5, 31595, 31680, and 31680.1 apply to both the board of retirement and board of investments, and "board" means both "board of retirement" and "board of investments."

(b) In Article 17 (commencing with Section 31880) of this chapter, "board" means the Board of Administration of the Public Employees' Retirement System.

(c) In all other cases, "board" means the board of retirement.

SEC. 2. Section 31459.1 of the Government Code is amended to read:

31459.1. (a) In a county in which a board of investments has been established pursuant to Section 31520.2:

(1) As used in Sections 31453, 31453.5, 31454, 31454.1, 31454.5, 31472, 31588.1, 31589.1, 31591, 31592.3, 31594, 31595.1, 31595.9, 31596, 31596.1, 31601.1, 31607, 31610, 31611, 31612, 31613, 31616, 31618, 31621.11, 31625, 31639.26, 31784, and 31872, "board" means board of investments.

(2) As used in the first paragraph of Section 31592.2 and the first paragraph and subdivision (c) of the second paragraph of Section 31595, "board" means a board of investments.

(3) Sections 31521, 31522, 31522.1, 31522.2, 31523, 31524, 31525, 31528, 31529, 31529.5, 31580.2, 31614, 31680, and 31680.1, apply to both the board of retirement and board of investments, and "board" means either or both the board of retirement and board of investments.

(4) Subdivision (a) of Section 31526 and subdivisions (a) and (b) of the second paragraph of Section 31595 apply to both the board of retirement and board of investments, and "board" means either or both the board of retirement and board of investments.

(b) In Article 17 (commencing with Section 31880) of this chapter, "board" means the Board of Administration of the Public Employees' Retirement System.

(c) In all other cases, "board" means the board of retirement.

(d) This section shall apply only in a county of the first class, as defined in Section 28020, as amended by Chapter 1204 of the Statutes of 1971, and Section 28022, as amended by Chapter 43 of the Statutes of 1961.

SEC. 3. Section 31528 of the Government Code is amended to read:

31528. (a) Unless permitted by this chapter, a member or employee of the board shall not become an endorser, surety, or obligor on, or have any personal interest, direct or indirect, in the making of any investment for the board, or in the gains or profits accruing from those investments. A member or employee of the board shall not directly or indirectly, for himself or herself, or as an agent or partner of others, borrow or use any of the funds or deposits of the retirement system, except to make current and necessary payments authorized by the board.

(b) A member or employee of the board shall not, directly or indirectly, by himself or herself, or as an agent or partner or employee of others, sell or provide any investment product that would be considered an asset of the fund, to any retirement system established pursuant to this chapter.

CHAPTER 316

An act to amend Sections 2155 and 2156 of, and to add Section 2155.5 to, the Elections Code, relating to voter registration.

[Filed with Secretary of State October 8, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 2155 of the Elections Code is amended to read:

2155. Upon receipt of a properly executed affidavit of registration or address correction notice or letter pursuant to Section 2119, Article 2 (commencing with Section 2220), or the National Voter Registration Act of 1993 (42 U.S.C. Sec. 1973gg), the county elections official shall send the voter a voter notification by nonforwardable, first-class mail, address correction requested. The voter notification shall state the party affiliation for which the voter has registered in the following format:

Party: (Name of political party)

The voter notification shall be substantially in the following form:

VOTER NOTIFICATION

You are registered to vote. The party affiliation for which you have registered is shown on the reverse of this card. This card is being sent as a notification of:

1. Your recently completed affidavit of registration,

OR,

2. A correction to your registration because of an official notice that you have moved. If your residence address has not changed or if your move is temporary, please call or write the county elections official immediately.

OR,

3. Your recent registration with a change in party affiliation. If this change is not correct, please call or write the county elections official immediately.

You may vote in any election held 15 or more days after the date shown on the reverse side of this card.

Your name will appear on the index kept at the polls.

Please contact your county elections office if the information shown on the reverse side of this card is incorrect.

_____

(Signature of Voter)

SEC. 2. Section 2155.5 is added to the Elections Code, to read:

2155.5. (a) The Secretary of State may, in coordination with county elections officials who choose to participate, develop specific procedures to address complaints related to voter registration, including procedures to promptly reregister voters who believe their registration was changed improperly.

(b) The procedures adopted pursuant to this section shall not provide any exemption to laws related to voter registration within the 15 days prior to an election.

SEC. 3. Section 2156 of the Elections Code is amended to read:

2156. The Secretary of State shall print, or cause to be printed, the blank forms of the voter notification prescribed by Section 2155. The Secretary of State shall supply the forms to the county elections official in quantities and at times requested by the county elections official. The Secretary of State may continue to supply, and the county elections officials may continue to use, existing voter notification forms prior to printing new or revised forms as required by any changes to Section 2155.

SEC. 4. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

CHAPTER 317

An act to amend, repeal, and add Section 6375.5 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Filed with Secretary of State October 8, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 6375.5 of the Revenue and Taxation Code is amended to read:

6375.5. (a) There are exempted from the taxes imposed by this part the gross receipts from the sale of, and the storage, use, or other consumption in this state of, new children's clothing that is sold to a nonprofit organization for its distribution without charge to individuals under 18 years of age.

(b) For purposes of this section, "nonprofit organization" means an organization which meets all of the following criteria:

(1) Is organized and operated for charitable purposes.

(2) Has exempt status under Section 23701d or 23701f.

(3) Furnishes new children's clothing principally as a matter of assistance to recipients in distressed financial conditions.

(c) This section shall remain in effect only until January 1, 2014, and as of that date is repealed.

SEC. 2. Section 6375.5 is added to the Revenue and Taxation Code, to read:

6375.5. (a) There are exempted from the taxes imposed by this part the gross receipts from the sale of, and the storage, use, or other consumption in this state of, new children's clothing that is sold to a nonprofit organization for its distribution without charge to elementary schoolchildren.

(b) For purposes of this section, "nonprofit organization" means an organization that meets all of the following requirements:

(1) Is organized and operated for charitable purposes.

(2) Has exempt status under Section 23701d.

(3) Is engaged in the relief of poverty and distress.

(4) Distributes new children's clothing principally as a matter of assistance to recipients in distressed financial conditions.

(c) This section shall become operative on January 1, 2014.

SEC. 3. Notwithstanding Section 2230 of the Revenue and Taxation Code, no appropriation is made by this act and the state shall not reimburse any local agency for any sales and use tax revenues lost by it under this act.

SEC. 4. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect. However, the provisions of this act shall become operative on January 1, 2008.

CHAPTER 318

An act to amend Section 22940 of, to amend, renumber, and add Section 22942 of, to add Section 22944.2 to, and to repeal and add Section 22944 of, the Government Code, relating to public employees' benefits.

[Filed with Secretary of State October 8, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 22940 of the Government Code is amended to read:

22940. There is in the State Treasury the Annuitants' Health Care Coverage Fund that is a trust fund and a retirement fund, within the meaning of Section 17 of Article XVI of the California Constitution. Notwithstanding Section 13340, all moneys in the fund are continuously appropriated without regard to fiscal years to the board for expenditure for the prefunding of health care coverage for annuitants pursuant to this part, including administrative costs. The board has sole and exclusive control and power over the administration and investment of the Annuitants' Health Care Coverage Fund and shall make investments pursuant to Part 3 (commencing with Section 20000).

SEC. 2. Section 22942 of the Government Code is amended and renumbered to read:

22943. An employer authorized by the board may elect to participate in the prefunding plan established by this article.

SEC. 3. Section 22942 is added to the Government Code, to read:

22942. For purposes of this article, the following definitions shall apply:

(a) "Annuitant" means any of the following:

(1) An annuitant described in Section 22760.

(2) A person who retires from employment with an employer described in paragraph (2) of subdivision (c) and who receives postemployment health care benefits or other postemployment benefits from the prefunding plan provided by that employer.

(3) A surviving family member who receives postemployment health care benefits or other postemployment benefits as a beneficiary of a deceased person described in paragraph (2).

(b) "Employee" means an employee described in Section 22772. "Employee" also means an officer or employee of an employer described in paragraph (2) of subdivision (c).

(c) "Employer" means either of the following:

(1) An employer described in Section 22773.

(2) An entity described in Section 22920 that has one or more employees and that entity provides postemployment health care benefits or other postemployment benefits to annuitants.

SEC. 4. Section 22944 of the Government Code is repealed.

SEC. 5. Section 22944 is added to the Government Code, to read:

22944. The board may, in its discretion and upon terms and conditions set by the board, authorize an employer to participate in the prefunding plan established by this article. The governing body of a participating employer shall enter into a contract with the board, setting forth the terms and conditions of that employer's participation in the prefunding plan, including, but not limited to, funding, expenditures, and actuarial, accounting, reporting, and investment considerations.

SEC. 6. Section 22944.2 is added to the Government Code, to read:

22944.2. (a) A contract entered into between an employer and the board pursuant to Section 22944 shall not create, change, or vest the obligations of an employer or the board that were created under any other contract, law, ordinance, regulation, or similar actions to provide benefits for employees or annuitants of a participating employer.

(b) A contract between an employer and the board entered into pursuant to Section 22944, in and of itself, shall not create, change, or vest an obligation for either party to the contract to provide a specific level of postemployment health care benefits or other postemployment benefits to employees or annuitants of a participating employer.

(c) A contract between an employer and the board entered into pursuant to Section 22944, in and of itself, shall not preclude or in any way affect the authority of the employer to create, change, or vest the specific postemployment health care benefits or other postemployment benefits that the employer may choose to provide to its employees or annuitants.

CHAPTER 319

An act to amend Section 65596 of the Government Code, and to add a heading as Chapter 1 (commencing with Section 10004) to, and to add Chapter 2 (commencing with Section 10015) to, Part 1.5 of Division 6 of the Water Code, relating to water conservation.

[Filed with Secretary of State October 8, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 65596 of the Government Code is amended to read:

65596. The updated model ordinance adopted pursuant to Section 65595 shall do all the following in order to reduce water use:

(a) Include provisions for water conservation and the appropriate use and groupings of plants that are well-adapted to particular sites and to particular climatic, soil, or topographic conditions. The model ordinance shall not prohibit or require specific plant species, but it may include conditions for the use of plant species or encourage water conserving plants. However, the model ordinance shall not include conditions that have the effect of prohibiting or requiring specific plant species.

(b) Include a landscape water budget component that establishes the maximum amount of water to be applied through the irrigation system, based on climate, landscape size, irrigation efficiency, and plant needs.

(c) Promote the benefits of consistent local ordinances in neighboring areas.

(d) Encourage the capture and retention of stormwater onsite to improve water use efficiency or water quality.

(e) Include provisions for the use of automatic irrigation systems and irrigation schedules based on climatic conditions, specific terrains and soil types, and other environmental conditions. The model ordinance shall include references to local, state, and federal laws and regulations regarding standards for water-conserving irrigation equipment. The model ordinance may include climate information for irrigation scheduling based on the California Irrigation Management Information System (Chapter 2 (commencing with Section 10015) of Part 1.5 of Division 6 of the Water Code).

(f) Include provisions for onsite soil assessment and soil management plans that include grading and drainage to promote healthy plant growth and to prevent excessive erosion and runoff, and the use of mulches in shrub areas, garden beds, and landscaped areas where appropriate.

(g) Promote the use of recycled water consistent with Article 4 (commencing with Section 13520) of Chapter 7 of Division 7 of the Water Code.

(h) Seek to educate water users on the efficient use of water and the benefits of doing so.

(i) Address regional differences, including fire prevention needs.

(j) Exempt landscaping that is part of a registered historical site.

(k) Encourage the use of economic incentives to promote the efficient use of water.

(*l*) Include provisions for landscape maintenance practices that foster long-term landscape water conservation. Landscape maintenance practices may include, but are not limited to, performing routine irrigation system repair and adjustments, conducting water audits, and prescribing the amount of water applied per landscaped acre.

(m) Include provisions to minimize landscape irrigation overspray and runoff.

SEC. 2. The heading of Chapter 1 (commencing with Section 10004) is added to Part 1.5 of Division 6 of the Water Code, immediately preceding Section 10004, to read:

Chapter 1. The California Water Plan

SEC. 3. Chapter 2 (commencing with Section 10015) is added to Part 1.5 of Division 6 of the Water Code, to read:

Chapter 2. California Irrigation Management Information System

10015. The Legislature hereby finds and declares all of the following:

(a) The state's growth requires policymakers to seek creative ways to maximize the use of water resources and employ technology to conserve water whenever possible.

(b) The state's agricultural industry, as well as residential landscapers, pest control managers, park and golf course operators, water agencies, and large urban irrigators rely on the California Irrigation Management Information System (CIMIS) to provide evapotranspiration data that allows them to develop weather-based, water budgeting methods of irrigation. A recent study found that the California Irrigation Management Information System generates $64.7 million in annual benefits to the state, at an annual cost of only eight hundred fifty thousand dollars ($850,000).

(c) Completing the development of standard data protocol for evapotranspiration data and enhancing statewide coverage of CIMIS data will allow significant improvements in landscape management and irrigation scheduling, thereby saving significant amounts of water. Studies have shown a savings of 37 gallons per day for residential irrigation, and 545 gallons per day for nonresidential irrigation, as well as runoff reduction of up to 50 percent when weather-based irrigation controllers using evapotranspiration data are installed.

(d) The expansion of the California Irrigation Management Information System, and the use of evapotranspiration data in irrigation has other environmental benefits as well. The reduction in urban runoff

that results can lead to improved water quality, and for every one acre foot of water saved, there is a corresponding reduction of one ton of air emissions, according to the California Irrigation Management Information System Urban Resource Book (May 2000).

10016. (a) The Department of Water Resources shall complete the development of a standard data protocol for evapotranspiration data, to ensure that the data is available in an easily accessible, standard, and usable format throughout the state, and made available through the California Irrigation Management Information System.

(b) The Department of Water Resources shall continue the operation of the California Irrigation Management Information System to allow evapotranspiration data to be generated for, and made available to, all regions of the state.

(c) The Department of Water Resources shall perform the duties required by this section to the extent funds are appropriated for these purposes in the annual Budget Act.

(d) Upon appropriation by the Legislature, funds allocated pursuant to subdivision (a) of Section 75027 of the Public Resources Code shall be made available to provide regional contributions towards satisfying the duties required by this section.

CHAPTER 320

An act to amend Sections 31520.3, 31520.5, 31521, and 31521.1 of, and to add Section 31521.3 to, the Government Code, relating to county employees' retirement.

[Filed with Secretary of State October 8, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 31520.3 of the Government Code is amended to read:

31520.3. (a) Notwithstanding Section 31520.1, the board of retirement of a county of the 16th class, as defined by Sections 28020 and 28037, as amended by Chapter 1204 of the Statutes of 1971, may, by majority vote, appoint, from a list of nominees submitted by an organization consisting solely of retired members, an alternate retired member to the office of the eighth member, who shall serve until the expiration of the current term of the current eighth member and thereafter the alternate retired member shall be elected by the retired members of the association in the same manner and at the same time as the eighth

member is elected. The term of office of the alternate retired member shall run concurrently with the term of office of the eighth member. The alternate retired member shall vote as a member of the board only in the event the eighth member is absent from a board meeting for any cause. If there is a vacancy with respect to the eighth member, the alternate retired member shall fill that vacancy until a successor qualifies. The alternate retired member shall be entitled to the same compensation as the eighth member for attending a meeting, pursuant to Section 31521, whether or not the eighth member is in attendance at those meetings. In the event that this section is made applicable in any county, by the appointment of an alternate eighth member, the alternate safety member shall not sit and act for the eighth member, except as described in subdivision (b).

(b) If both the eighth member and the alternate retired member are not attending a meeting, the alternate safety member may sit and act for the eighth member as described in Section 31520.1.

SEC. 2. Section 31520.5 of the Government Code is amended to read:

31520.5. (a) Notwithstanding Section 31520.1, in any county subject to Articles 6.8 (commencing with Section 31639) and 7.5 (commencing with Section 31662), the board of retirement may, by majority vote, appoint, from a list of nominees submitted by a qualified retiree organization, an alternate retired member to the office of the eighth member, who shall serve until the expiration of the current term of the current eighth member. Thereafter, the alternate retired member shall be elected separately by the retired members of the association in the same manner and at the same time as the eighth member is elected. An organization shall be deemed to be a "qualified retiree organization" for purposes of this subdivision if a majority of the members of the organization are retired members of the system.

(b) The term of office of the alternate retired member shall run concurrently with the term of office of the eighth member. The alternate retired member shall vote as a member of the board only in the event the eighth member is absent from a board meeting for any cause. If there is a vacancy with respect to the eighth member, the alternate retired member shall fill that vacancy until a successor qualifies. Except as provided in subdivision (c) and as otherwise provided in this subdivision, the alternate retired member shall be entitled to the same rights and privileges and shall have the same responsibilities and access to closed sessions as the eighth member.

(c) The alternate retired member may hold positions on committees of the board independent of the eighth member and may participate in the deliberations of the board or its committees whether or not the eighth

member is present, unless prohibited by resolution or regulation of the board.

(d) The alternate retired member shall be entitled to the same compensation as the eighth member for attending a meeting, pursuant to Sections 31521 and 31521.1, whether or not the eighth member is in attendance at those meetings.

(e) (1) If this section is made applicable in any county, by the appointment of an alternate eighth member, the alternate safety member shall not sit and act for the eighth member, except as described in paragraph (2).

(2) If both the eighth member and the alternate retired member are not attending a meeting, the alternate safety member may sit and act for the eighth member as described in Section 31520.1.

SEC. 3. Section 31521 of the Government Code is amended to read:

31521. The board of supervisors may provide that the fourth and fifth members, and in counties having a board consisting of nine members or nine members and an alternate retired member, the fourth, fifth, sixth, eighth, ninth, and alternate retired members, and in counties having a board of investments under Section 31520.2, the fifth, sixth, seventh, eighth, and ninth members of the board of investments, shall receive compensation at a rate of not more than one hundred dollars ($100) for a meeting, or for a meeting of a committee authorized by the board, for not more than five meetings per month, together with actual and necessary expenses for all members of the board.

SEC. 4. Section 31521.1 of the Government Code is amended to read:

31521.1. (a) The board of supervisors may provide that in counties having a board consisting of nine members and an alternate retired member, the fourth, fifth, sixth, eighth, ninth, and alternate retired members, and in counties having a board of investments under Section 31520.2, the fifth, sixth, seventh, eighth, and ninth members of the board of investments, shall receive compensation at a rate of not more than one hundred dollars ($100) for a meeting, or for a meeting of a committee authorized by the board, for not more than five meetings per month, together with actual and necessary expenses for all members of the board.

(b) This section shall apply only in a county of the first class, as defined by Section 28020, as amended by Chapter 1204 of the Statutes of 1971, and Section 28022, as amended by Chapter 43 of the Statutes of 1961.

SEC. 5. Section 31521.3 is added to the Government Code, to read:

31521.3. (a) The board of supervisors may provide that the fourth, fifth, sixth, eighth, ninth, and alternate retired members of the board of retirement shall receive compensation for the review and analysis of

disability retirement cases. That compensation shall be limited to the first time a case is considered by the board and shall not exceed one hundred dollars ($100) per day. The compensation shall be prorated for less than eight hours of work in a single day.

(b) A board member compensated pursuant to subdivision (a) shall certify to the retirement board, in a manner specified by the retirement board, the number of hours spent reviewing disability cases each month. In no event shall the number of hours compensated under this section exceed 32 hours per month.

(c) On or before March 31, 2010, and on or before March 31 in each even-numbered year thereafter, the compensation limit established by the board of supervisors pursuant to subdivision (a) shall be adjusted biennially by the board of retirement to reflect any change in the Consumer Price Index for the Los Angeles, Riverside, and Orange County areas that has occurred in the previous two calendar years, rounded to the nearest dollar.

(c) This section shall apply only in a county of the first class, as defined by Section 28020, as amended by Chapter 1204 of the Statutes of 1971, and Section 28022, as amended by Chapter 43 of the Statutes of 1961.

CHAPTER 321

An act to amend Section 20035.1 of the Government Code, relating to public employees, and declaring the urgency thereof, to take effect immediately.

[Filed with Secretary of State October 8, 2007.]

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares that the purpose of this act is to approve addenda to memoranda of understanding entered into by the state employer and the state bargaining units that require the expenditure of funds.

SEC. 2. The provisions of the addenda to memoranda of understanding entered into by the state employer and the state bargaining units that require the expenditure of funds are hereby approved for the purposes of Section 3517.63 of the Government Code.

SEC. 3. Addenda to memoranda of understanding entered into by the state employer and the following state bargaining units are hereby approved:

(a) State Bargaining Unit 1, addendum dated September 15, 2006, effective January 1, 2007.

(b) State Bargaining Unit 7, addendum dated March 8, 2007, effective December 18, 2006.

(c) State Bargaining Unit 16, addendum dated May 3, 2007, effective April 1, 2007; and addendum dated May 8, 2007, effective April 1, 2007.

SEC. 4. The provisions of the addenda to memoranda of understanding approved by Sections 2 and 3 of this act and that require the expenditure of funds shall not take effect unless funds for these provisions are specifically appropriated by the Legislature or already exist within available appropriations. If the Legislature does not approve or fully fund any addendum included in this act, either party may reopen negotiations on all or part of the addendum.

SEC. 5. Section 20035.1 of the Government Code is amended to read:

20035.1. For patrol members in State Bargaining Unit 5, patrol members excepted from the definition of "state employee" in subdivision (c) of Section 3513, and patrol members who are officers or employees of the executive branch of state government who are not members of the civil service, the member's final compensation shall be increased as follows:

(a) For a member who retires or dies on or after July 1, 2001, and prior to July 1, 2004, the member's final compensation for patrol service subject to Section 21362.2 shall be increased by one-half of the normal rate of contribution specified in subdivision (a) of Section 20681.

(b) For a member who retires or dies on or after July 1, 2004, and prior to July 1, 2008, the member's final compensation for patrol service subject to Section 21362.2 shall be increased by the normal rate of contribution specified in subdivision (a) of Section 20681.

(c) For a member who retires or dies on or after July 1, 2008, and prior to July 1, 2009, the member's final compensation for patrol service subject to Section 21362.2 shall be increased by three-fourths of the normal rate of contribution specified in subdivision (a) of Section 20681.

(d) For a member who retires or dies on or after July 1, 2009, and prior to July 1, 2010, the member's final compensation for patrol service subject to Section 21362.2 shall be increased by one-half of the normal rate of contribution specified in subdivision (a) of Section 20681.

(e) For a member who retires or dies on or after July 1, 2010, and prior to July 1, 2011, the member's final compensation for patrol service subject to Section 21362.2 shall be increased by one-fourth of the normal rate of contribution specified in subdivision (a) of Section 20681.

(f) This section shall remain in effect only until July 1, 2011, and as of January 1, 2012, is repealed, unless a later enacted statute, that is enacted before January 1, 2012, deletes or extends that date.

SEC. 6. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for the provisions of this act to be applicable as soon as possible in the 2007–08 fiscal year, and thereby facilitate the orderly administration of state government at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 322

An act relating to memoranda of understanding, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Filed with Secretary of State October 8, 2007.]

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares that the purpose of this act is to approve addenda to memoranda of understanding entered into by the state employer and the state bargaining units that require the expenditure of funds.

SEC. 2. The provisions of the addenda to memoranda of understanding entered into by the state employer and the state bargaining units that require the expenditure of funds are hereby approved for the purposes of Section 3517.63 of the Government Code.

SEC. 3. Addenda to memoranda of understanding entered into by the state employer and the state bargaining units shall be approved in accordance with the following schedule:

(a) Bargaining Unit 20: Service Employees International Union addendum dated May 10, 2007, effective April 1, 2007.

(b) Bargaining Unit 1: Service Employees International Union addendum dated May 17, 2007, effective upon approval of this act.

(c) Bargaining Unit 8: California Department of Forestry Firefighters addendum dated June 28, 2007, effective July 1, 2007, requiring an appropriation.

(d) Bargaining Unit 3: Service Employees International Union addendum dated July 19, 2007, effective August 6, 2007.

(e) Bargaining Unit 19: American Federation of State, County, and Municipal Employees addendum dated July 30, 2007, effective July 1, 2007, requiring an appropriation.

(f) Bargaining Unit 3: Service Employees International Union addendum dated July 31, 2007, effective August 1, 2007.

(g) Bargaining Unit 18: California Association of Psychiatric Technicians addendum dated July 31, 2007, effective April 1, 2007, requiring an appropriation.

SEC. 4. The sum of twenty-six million five hundred sixteen thousand dollars ($26,516,000) is hereby appropriated for expenditure in the 2007–08 fiscal year in augmentation of, and for the purpose of state employee compensation as provided in, Items 9800-001-0001 and 9800-001-0988 of Section 2.00 of the Budget Act of 2007 in accordance with the following schedule:

(a) Twenty-one million two hundred seventy thousand dollars ($21,270,000) from the General Fund in augmentation of Item 9800-001-0001.

(b) Five million two hundred forty-six thousand dollars ($5,246,000) from other unallocated nongovernmental cost funds in augmentation of Item 9800-001-0988.

SEC. 5. The provisions of the addenda to memoranda of understanding approved by Sections 2 and 3 of this act and that require the expenditure of funds shall not take effect unless funds for these provisions are specifically appropriated by the Legislature or already exist within available appropriations. If the Legislature does not approve or fully fund any addendum included in this act, either party may reopen negotiations on all or part of the addendum.

SEC. 6. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for the provisions of this act to be applicable as soon as possible in the 2007–08 fiscal year, and thereby facilitate the orderly administration of state government at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 323

An act to amend Sections 22138.5, 22200, 22207, 22306, 22450, 22713, 22714, 22803, 23805, 23855, 24204, 24213, 24300.6, 24309, 24410.7, 24617, 24976, 25009, 44041, and 44830.3 of the Education Code, relating to teachers, and making an appropriation therefor.

[Filed with Secretary of State October 8, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 22138.5 of the Education Code is amended to read:

22138.5. (a) "Full time" means the days or hours of creditable service the employer requires to be performed by a class of employees in a school year in order to earn the compensation earnable as defined in Section 22115 and specified under the terms of a collective bargaining agreement or employment agreement. For the purpose of crediting service under this part, "full time" may not be less than the minimum standard specified in this section. Each collective bargaining agreement or employment agreement that applies to a member subject to the minimum standard specified in paragraph (5) of subdivision (c) shall specify the number of hours of creditable service that equal "full time" pursuant to this section, and shall make specific reference to this section.

(b) The minimum standard for full time in prekindergarten through grade 12 is as follows:

(1) One hundred seventy-five days per year or 1,050 hours per year, except as provided in paragraphs (2) and (3).

(2) (A) One hundred ninety days per year or 1,520 hours per year for all principals and program managers, including advisers, coordinators, consultants, and developers or planners of curricula, instructional materials, or programs, and for administrators, except as provided in subparagraph (B).

(B) Two hundred fifteen days per year or 1,720 hours per year including school and legal holidays pursuant to the policy adopted by the employer's governing board for administrators at a county office of education.

(3) One thousand fifty hours per year for teachers in adult education programs.

(c) The minimum standard for full time in community colleges is as follows:

(1) One hundred seventy-five days per year or 1,050 hours per year, except as provided in paragraphs (2), (3), (4), (5), and (6). Full time includes time for duties the employer requires to be performed as part of the full-time assignment for a particular class of employees.

(2) One hundred ninety days per year or 1,520 hours per year for all program managers and for administrators, except as provided in paragraph (3).

(3) Two hundred fifteen days per year or 1,720 hours per year including school and legal holidays pursuant to the policy adopted by the employer's governing board for administrators at a district office.

(4) One hundred seventy-five days per year or 1,050 hours per year for all counselors and librarians.

(5) Five hundred twenty-five instructional hours per school year for all instructors employed on a part-time basis, except instructors specified in paragraph (6). If an instructor receives compensation for office hours pursuant to Article 10 (commencing with Section 87880) of Chapter 3 of Part 51, the minimum standard shall be increased appropriately by the number of office hours required annually for the class of employees.

(6) Eight hundred seventy-five instructional hours per school year for all instructors employed in adult education programs. If an instructor receives compensation for office hours pursuant to Article 10 (commencing with Section 87880) of Chapter 3 of Part 51, the minimum standard shall be increased appropriately by the number of office hours required annually for the class of employees.

(d) The board has final authority to determine full time for purposes of crediting service under this part if full time is not otherwise specified in this section.

SEC. 2. Section 22200 of the Education Code is amended to read:

22200. (a) The plan and the system are administered by the Teachers' Retirement Board. On and after January 1, 2004, the members of the board are as follows:

(1) The Superintendent of Public Instruction.

(2) The Controller.

(3) The Treasurer.

(4) The Director of Finance.

(5) Three persons who are either members of the Defined Benefit Program or participants in the Cash Balance Benefit Program, as follows:

(A) One person who, at the time of election, is an active member of the Defined Benefit Program or an active participant of the Cash Balance Benefit Program employed by a school district that provides instruction for prekindergarten, kindergarten, or grades 1 to 12, inclusive, or a county office of education, in a position other than a school administrator that requires a services credential with a specialization in administrative services. This member shall be elected by the active members of the Defined Benefit Program and active participants of the Cash Balance Benefit Program who are employed by a school district that provides instruction for prekindergarten, kindergarten, or grades 1 to 12, inclusive, or county office of education, pursuant to regulations adopted by the board, for a four-year term commencing on January 1, 2004.

(B) One person who, at the time of election, is an active member of the Defined Benefit Program or an active participant of the Cash Balance Benefit Program employed by a school district that provides instruction for prekindergarten, kindergarten, or grades 1 to 12, inclusive, or a county office of education. This member shall be elected by the active members of the Defined Benefit Program and active participants of the Cash Balance Benefit Program who are employed by a school district that provides instruction for prekindergarten, kindergarten, or grades 1 to 12, inclusive, or a county office of education, pursuant to regulations adopted by the board, for a four-year term commencing on January 1, 2004.

(C) One person who, at the time of election, is a community college instructor and an active member of the Defined Benefit Program or an active participant of the Cash Balance Benefit Program employed by a community college district, who shall be elected by the active community college members of the Defined Benefit Program and the active community college participants of the Cash Balance Benefit Program, pursuant to regulations adopted by the board, for a four-year term commencing on January 1, 2004.

(6) Five persons appointed by the Governor for a term of four years, subject to confirmation by the Senate, as follows:

(A) One person who, at the time of appointment, is a member of the governing board of a school district or a community college district.

(B) One person who is either a retired member under this part or a retired participant under Part 14 (commencing with Section 26000).

(C) Three persons representing the public, whose terms shall be staggered by varying the first terms of these members, as follows:

(i) One person to a term expiring December 31, 2005.

(ii) One person to a term expiring December 31, 2006.

(iii) One person to a term expiring December 31, 2007.

(b) A person who is employed to perform creditable service by a community college district and either a school district that provides instruction for prekindergarten, kindergarten, or grades 1 to 12, inclusive, or a county office of education, may only be elected to the position on the board that corresponds to the position in which he or she accrued the most service credit during the prior school year.

(c) The members of the board shall annually elect a chairperson and vice chairperson.

SEC. 3. Section 22207 of the Education Code is amended to read:

22207. The board shall perform any other acts necessary for the administration of the system and the plan in carrying into effect the provisions of this part and Part 14 (commencing with Section 26000),

which may include, but shall not be limited to, requesting the following information from a member, participant, or beneficiary:

(a) Financial statements, certified copies of state and federal income tax records, or evidence of financial status.

(b) Employment, legal, or medical documentation.

SEC. 4. Section 22306 of the Education Code is amended to read:

22306. (a) Information filed with the system by a member, participant, or beneficiary of the plan is confidential and shall be used by the system for the sole purpose of carrying into effect the provisions of this part. No official or employee of the system who has access to the individual records of a member, participant, or beneficiary shall divulge any confidential information concerning those records to any person except in the following instances:

(1) To the member, participant, or beneficiary to whom the information relates.

(2) To the authorized representative of the member, participant, or beneficiary.

(3) To the governing board of the member's or participant's current or former employer.

(4) To any department, agency, or political subdivision of this state.

(5) To other individuals as necessary to locate a person to whom a benefit may be payable.

(6) Pursuant to subpoena.

(7) To an agent or a physician authorized by the board in the performance of duties pursuant to Section 24003, 24012, 24103, or 24111.

(8) To a physician or psychologist authorized by the member to receive medical information, if the system determines that the information may be detrimental to the member, as provided under Section 1798.40 of the Civil Code.

(b) Information filed with the system in a beneficiary designation form may be released after the death of the member or participant to those persons who may provide information necessary for the distribution of benefits.

(c) The information is not open to inspection by anyone except the board and its officers and employees of the system, and any person authorized by the Legislature to make inspections.

SEC. 5. Section 22450 of the Education Code is amended to read:

22450. (a) Each member and beneficiary shall furnish to the board any information affecting his or her status as a member or beneficiary of the Defined Benefit Program as the board requires, which may include, but shall not be limited to, the following:

(1) Financial statements, certified copies of state and federal income tax records, or evidence of financial status.

(2) Employment, legal, or medical documentation.

(b) A member who has not had any creditable service reported during the prior school year shall provide the system with his or her current mailing address and beneficiary information.

SEC. 6. Section 22713 of the Education Code is amended to read:

22713. (a) Notwithstanding any other provision of this chapter, the governing board of a school district or a community college district or a county superintendent of schools may establish regulations that allow an employee who is a member of the Defined Benefit Program to reduce his or her workload from full time to part time, and receive the service credit the member would have received if the member had been employed on a full-time basis and have his or her retirement allowance, as well as other benefits that the member is entitled to under this part, based, in part, on final compensation determined from the compensation earnable the member would have been entitled to if the member had been employed on a full-time basis.

(b) The regulations shall include, but may not be limited to, the following:

(1) The option to reduce the member's workload shall be exercised at the request of the member and may be revoked only with the mutual consent of the employer and the member. The agreement to reduce a member's workload shall be in effect at the beginning of the school year.

(2) The member shall have been employed on a full-time basis to perform creditable service subject to coverage under the Defined Benefit Program and have a minimum of 10 years of credited service, including five years of credited service for full-time employment immediately preceding the reduction in workload.

(3) The member may not have had a break in service during the five years immediately preceding the reduction in workload. For purposes of this subdivision, sabbaticals, other approved leaves of absence, and unpaid absences from the performance of creditable service for personal reasons do not constitute a break in service. For purposes of this subdivision, the period of time during which a member is retired for service shall constitute a break in service and a member who reinstates from retirement shall be required to be employed on a full-time basis to perform creditable service for at least five school years immediately preceding the reduction in workload.

(4) The member shall have reached 55 years of age prior to the reduction in workload.

(5) The reduced workload shall be performed for a period of time, as specified in the regulations, up to and including 10 years. The period of time specified in the regulations may not exceed 10 years.

(6) The reduced workload shall be equal to at least one-half of the time the employer requires for full-time employment in accordance with Section 22138.5 pursuant to the member's contract of employment during his or her last school year of full-time employment preceding the reduction in workload.

(7) The member shall be paid creditable compensation that is the pro rata share of the creditable compensation the member would have been paid had the member not reduced his or her workload.

(c) Prior to the reduction of a member's workload under this section, the employer, in conjunction with the administrative staff of the State Teachers' Retirement Plan and the Public Employees' Retirement System, shall verify the member's eligibility for the reduced workload program.

(d) For each school year the member's workload is reduced pursuant to this section, the member shall make contributions to the Teachers' Retirement Fund in the amount that the member would have contributed if the member had performed creditable service on a full-time basis and if that service was subject to coverage under the Defined Benefit Program.

(e) For each school year the member's workload is reduced pursuant to this section, the employer shall contribute to the Teachers' Retirement Fund at a rate adopted by the board as a plan amendment with respect to the Defined Benefit Program an amount based upon the creditable compensation that would have been paid to the member if the member had performed creditable service on a full-time basis and if that service was subject to coverage under the Defined Benefit Program.

(f) The employer shall maintain the necessary records to separately identify each member who participates in the reduced workload program pursuant to this section.

(g) A member who retires or otherwise separates from service prior to the end of the school year shall be in violation of this section and the member's service credit for that period of the contract shall be computed in accordance with Section 22701.

SEC. 7. Section 22714 of the Education Code is amended to read:

22714. (a) Whenever the governing board of a school district or a community college district or a county office of education, by formal action, determines pursuant to Section 44929 or 87488 that, because of impending curtailment of, or changes in, the manner of performing services, the best interests of the district or county office of education would be served by encouraging certificated employees or academic

employees to retire for service and that the retirement will result in a net savings to the district or county office of education, an additional two years of service credit shall be granted under this part to a member of the Defined Benefit Program if all of the following conditions exist:

(1) The member is credited with five or more years of service credit and retires for service under Chapter 27 (commencing with Section 24201) during a period of not more than 120 days or less than 60 days, commencing no sooner than the effective date of the formal action of the employer that shall specify the period.

(2) The employer transfers to the retirement fund an amount determined by the Teachers' Retirement Board to equal the actuarial equivalent of the difference between the allowance the member receives after receipt of service credit pursuant to this section and the amount the member would have received without the service credit and an amount determined by the Teachers' Retirement Board to equal the actuarial equivalent of the difference between the purchasing power protection supplemental payment the member receives after receipt of service credit pursuant to this section and the amount the member would have received without the service credit. The payment for purchasing power shall be deposited in the Supplemental Benefit Maintenance Account established by Section 22400 and shall be subject to Section 24415. The transfer to the retirement fund shall be made in a manner and a time period, not to exceed eight years, that is acceptable to the Teachers' Retirement Board. The employer shall transfer the required amount for all eligible employees who retire pursuant to this section.

(3) The employer transmits to the retirement fund the administrative costs incurred by the system in implementing this section, as determined by the Teachers' Retirement Board.

(4) The employer has considered the availability of teachers or academic employees to fill the positions that would be vacated pursuant to this section.

(b) (1) The school district shall demonstrate and certify to the county superintendent that the formal action taken would result in a net savings to the district.

(2) The county superintendent shall certify to the Teachers' Retirement Board that the result specified in paragraph (1) can be demonstrated. The certification shall include, but not be limited to, the information specified in subdivision (c) of Section 14502.1.

(3) The school district shall reimburse the county superintendent for all costs to the county superintendent that result from the certification.

(c) (1) The county office of education shall demonstrate and certify to the Superintendent of Public Instruction that the formal action taken would result in a net savings to the county office of education.

(2) The Superintendent of Public Instruction shall certify to the Teachers' Retirement Board that the result specified in paragraph (1) can be demonstrated. The certification shall include, but not be limited to, the information specified in subdivision (c) of Section 14502.1.

(3) The Superintendent of Public Instruction may request reimbursement from the county office of education for all administrative costs that result from the certification.

(d) (1) The community college district shall demonstrate and certify to the chancellor's office that the formal action taken would result in a net savings to the district.

(2) The chancellor shall certify to the Teachers' Retirement Board that the result specified in paragraph (1) can be demonstrated. The certification shall include, but not be limited to, the information specified in subdivision (c) of Section 84040.5.

(3) The chancellor may request reimbursement from the community college district for all administrative costs that result from the certification.

(e) The opportunity to be granted service credit pursuant to this section shall be available to all members employed by the school district, community college district, or county office of education who meet the conditions set forth in this section.

(f) The amount of service credit shall be two years.

(g) Any member of the Defined Benefit Program who retires under this part for service under Chapter 27 (commencing with Section 24201) with service credit granted under this section and who subsequently reinstates shall forfeit the service credit granted under this section.

(h) Any member of the Defined Benefit Program who retires under this part for service under Chapter 27 (commencing with Section 24201) with service credit granted under this section and who takes any job with the school district, community college district, or county office of education that granted the member the service credit less than five years after receiving the credit shall forfeit the ongoing benefit he or she receives from the additional service credit granted under this section.

(i) This section does not apply to any member otherwise eligible if the member receives any unemployment insurance payments arising out of employment with an employer subject to this part within one year following the effective date of the formal action under subdivision (a), or if the member is not otherwise eligible to retire for service.

SEC. 8. Section 22803 of the Education Code is amended to read:

22803. (a) A member may elect to receive credit for any of the following:

(1) Service performed in a teaching position in a publicly supported and administered university or college in this state not covered by another public retirement system.

(2) Service performed in a certificated teaching position in a child care center operated by a county superintendent of schools or a school district in this state.

(3) Service performed in a teaching position in the California School for the Deaf or the California School for the Blind, or in special classes maintained by the public schools of this state for the instruction of the deaf, the hard of hearing, the blind, or the semisighted.

(4) Service performed in a certificated teaching position in a federally supported and administered Indian school in this state.

(5) Time served, not to exceed two years, in a certificated teaching position in a job corps center administered by the United States government in this state if the member was employed to perform creditable service subject to coverage under the Defined Benefit Program within one year prior to entering the job corps and returned to employment to perform creditable service subject to coverage under the Defined Benefit Program within six months following the date of termination of service in the job corps.

(6) Time served, not to exceed two years, in a teaching position as a member of the Peace Corps if the member was employed to perform creditable service subject to coverage under the Defined Benefit Program within one year prior to entering the Peace Corps and returned to employment to perform creditable service subject to coverage under the Defined Benefit Program within six months following the date of termination of service in the Peace Corps.

(7) Time spent on a sabbatical leave, approved by an employer in this state, after July 1, 1956.

(8) Time spent on an approved leave, approved by an employer in this state, to participate in any program under the federal Mutual Educational and Cultural Exchange Program.

(9) Time spent on leave approved by an employer in this state as maternity or paternity leave, not to exceed 24 consecutive months, regardless of whether or not the leave was taken before or after the addition of this subdivision.

(10) Time spent on an approved leave, up to four months in any 12-month period, for family care or medical leave purposes, as defined by Section 12945.2 of the Government Code, as it read on the date leave was granted, excluding maternity and paternity leave.

(11) Time spent employed by the Board of Governors of the California Community Colleges in a position subject to coverage by the Public Employees' Retirement System between July 1, 1991, and December

31, 1997, provided the member has elected to return to coverage under the State Teachers' Retirement System pursuant to Section 20309 of the Government Code.

(b) In no event shall the member receive credit for service or time described in paragraphs (1) to (11), inclusive, of subdivision (a) if the member has received or is eligible to receive credit for the same service or time in the Cash Balance Benefit Program under Part 14 (commencing with Section 26000) or another retirement system.

SEC. 9. Section 23805 of the Education Code is amended to read:

23805. A family allowance is payable in the amount and to the specified persons in the following order of priority:

(a) To the deceased member's surviving spouse who has financial responsibility for at least one dependent child, an amount equal to 40 percent of the member's final compensation or the disabled member's projected final compensation plus 10 percent of the member's final compensation or the disabled member's projected final compensation for each child, up to a maximum allowance of 90 percent.

(b) If there is no surviving spouse or upon the death of the surviving spouse, to each dependent child, an amount equal to 10 percent of the deceased member's final compensation or the disabled member's projected final compensation, up to a maximum allowance of 50 percent. If there are more than five dependent children, they shall share equally in the maximum allowance of 50 percent.

(c) To the surviving spouse at 60 years of age or over if there is no dependent child, a monthly allowance equal to the amount that would have been payable to the spouse as beneficiary under Option 3 pursuant to Section 24300, as that section read on December 31, 2006, that provides an allowance equal to one-half of the modified retirement allowance the member would have received at 60 years of age, computed on the member's projected final compensation and projected service to normal retirement age. The allowance payable under this subdivision shall be increased by application of the benefit improvement factor for time that elapses between the date the member would have attained normal retirement age and the date the family allowance under this subdivision begins to accrue. The allowance calculation shall include service credit for the unused sick leave that had accrued to the member as of the date of his or her death. Eligibility for the inclusion of service credit for unused sick leave credit and the calculation of that service credit shall be determined pursuant to Section 22717.

(d) If there is no surviving spouse or dependent child, to the dependent parent, 60 years of age or over, a monthly allowance equal to the amount that would have been payable to the dependent parent as beneficiary under Option 3 pursuant to Section 24300, as that section read on

December 31, 2006, that provides an allowance equal to one-half of the modified retirement allowance the member would have received at 60 years of age, computed on the member's projected final compensation and projected service to normal retirement age. The allowance calculation shall include service credit for the unused sick leave that had accrued to the member as of the date of his or her death. Eligibility for the inclusion of service credit for unused sick leave and the calculation of that service credit shall be determined pursuant to Section 22717. If there are two dependent parents, only one family allowance shall be payable under this subdivision and that allowance shall be computed on the assumption that the younger parent is the option beneficiary and the allowance shall be divided equally for as long as there are two dependent parents. Thereafter, the full allowance shall be payable to the surviving dependent parent.

(e) The surviving spouse or dependent parent may elect to begin receiving the family allowance payable under subdivision (c) or (d) immediately upon the later of the death of the member or when there is no dependent child, or to defer receipt of the allowance to the date the surviving spouse or dependent parent attains 60 years of age. If allowance payments commence prior to the date the surviving spouse or dependent parent attains 60 years of age, the allowance payable shall be actuarially reduced.

(f) If there is no dependent child, a surviving spouse or dependent parent or parents may elect, prior to receipt of the first payment under subdivision (c) or (d), to receive the member's accumulated retirement contributions in a lump sum subject to a reduction for any disability allowance or family allowance payments previously made.

(g) (1) The allowance calculated under this section shall not include either of the following:

(A) The increase in the percentage of final compensation pursuant to Section 24203.5.

(B) The increase in the monthly allowance pursuant to Section 24203.6.

(2) This subdivision does not constitute a change in, but is declaratory of, the existing law.

SEC. 10. Section 23855 of the Education Code is amended to read:

23855. (a) The survivor benefit allowance is a monthly allowance equal to one-half of the modified retirement allowance the member would have received at 60 years of age, if the member had retired and elected Option 3 pursuant to Section 24300, as that section read on December 31, 2006, naming the spouse as the option beneficiary.

(b) The allowance payable under this subdivision shall be based on the member's actual service credit and final compensation as of the date

of his or her death, the retirement factor at 60 years of age, and the member's and spouse's ages as of the date the member would have attained 60 years of age. If the member's death occurs after he or she attains 60 years of age, his or her actual final compensation, the retirement factor at 60 years of age, and the member's and spouse's ages as of the date of the member's death shall be used in the allowance calculation.

(c) The allowance calculation shall include service credit for the unused sick leave that had accrued to the member as of the date of his or her death. Eligibility for the inclusion of unused sick leave service credit and the calculation of that service credit shall be determined pursuant to Section 22717.

(d) (1) The allowance calculation shall not include either of the following:

(A) The increase in the percentage of final compensation pursuant to Section 24203.5.

(B) The increase of the monthly allowance pursuant to Section 24203.6.

(2) The amendments to this section made by the act adding this paragraph do not constitute a change in, but are declaratory of, existing law.

(e) The surviving spouse may elect to begin receiving the survivor benefit allowance immediately as of the date of the member's death or to defer receipt of the allowance to the date the member would have attained 60 years of age. If allowance payments to the surviving spouse commence prior to the date the member would have attained 60 years of age, the allowance payable shall be actuarially reduced.

(f) If the spouse elects, pursuant to Section 23852, to receive the survivor benefit allowance, an additional 10 percent of final compensation shall be payable for each dependent child who is under 21 years of age, up to a maximum of 50 percent of final compensation. The child's portion shall begin to accrue on the day following the member's date of death and shall be payable even if the spouse elects to postpone receipt of the spouse's survivor benefit allowance until the date the member would have attained 60 years of age.

(g) If there is no surviving spouse, an allowance in an amount equal to 10 percent of the deceased member's final compensation shall be paid to each dependent child who is under 21 years of age, up to a maximum of 50 percent of final compensation. If there are more than five dependent children, they shall receive allowances in equal shares of the 50 percent of final compensation. A child's portion of the survivor benefit allowance shall begin to accrue on the day following the member's date of death.

SEC. 11. Section 24204 of the Education Code is amended to read:

24204. A service retirement allowance under this part shall become effective upon any date designated by the member, provided all of the following conditions are met:

(a) An application for service retirement allowance is filed on a form provided by the system, which is executed no earlier than six months before the effective date of retirement allowance.

(b) The effective date is later than the last day of creditable service for which compensation is payable to the member.

(c) The effective date is no earlier than the first day of the month in which the application is received at the system's headquarters office, as established pursuant to Section 22375.

(d) The effective date is no earlier than one year following the date on which the retirement allowance was terminated under Section 24208, or subdivision (a) of Section 24117.

(e) The effective date is no earlier than the date upon and continuously after which the member is determined to the satisfaction of the board to have been mentally incompetent.

(f) A member who files an application for service retirement may change or cancel his or her retirement application, as long as the form provided by the system is received in the system's headquarters office, established pursuant to Section 22375, no later than the last day of the month in which the retirement date is effective.

SEC. 12. Section 24213 of the Education Code is amended to read:

24213. (a) When a member who has been granted a disability allowance under this part after June 30, 1972, attains normal retirement age, or at a later date when there is no dependent child, the disability allowance shall be terminated and the member shall be eligible for service retirement. The retirement allowance shall be calculated on the projected final compensation and projected service to normal retirement age, excluding service credited pursuant to Section 22717 or 22717.5, or Chapter 14 (commencing with Section 22800) or Chapter 14.2 (commencing with Section 22820). The allowance payable under this section, excluding annuities payable from accumulated annuity deposit contributions, shall not be greater than the terminated disability allowance. The allowance shall be increased by an amount based on any service credited pursuant to Section 22714, 22714.5, 22715, 22717, or 22717.5, or Chapter 14 (commencing with Section 22800), Chapter 14.2 (commencing with Section 22820), or Chapter 19 (commencing with Section 23200) and projected final compensation to normal retirement age.

(b) Upon retirement, the member may elect to modify the service retirement allowance payable in accordance with any option provided under this part.

SEC. 13. Section 24300.6 of the Education Code is amended to read:

24300.6. (a) Any retired member who was unmarried and not in a registered domestic partnership on the effective date of retirement who did not elect an option pursuant to Section 24300 or 24300.1, and who thereafter marries or registers in a domestic partnership, may, after the effective date of the member's retirement under this part, elect an option described in paragraph (1), (2), or (3) of subdivision (a) of Section 24300.1, naming his or her new spouse or registered domestic partner as the option beneficiary, subject to all of the following:

(1) The retired member shall have been married or registered in a domestic partnership for at least one year prior to making the election of the option.

(2) The retired member shall notify the board, in writing on a properly executed form provided by the system, of the election of the option and the designation of the member's new spouse or registered domestic partner as the option beneficiary. That notice shall include a certified copy of the marriage certificate or the certificate of registration of domestic partnership.

(3) The election of an option under this section is subject to approval by the board. A retired member may not elect a joint and survivor option that would result in any additional liability to the retirement fund. A retired member may not elect the compound option described in paragraph (4) of subdivision (a) of Section 24300.1.

(4) The election shall be effective six months after the date the notification is received by the board, provided that both the retired member and the retired member's designated spouse or registered domestic partner are then living. If the effective date of the new option election is on or after January 1, 2007, at the time of the new election the retired member shall elect an option from the options described in Section 24300.1.

(b) The election of the option and designation of the option beneficiary under this section shall result in an actuarial modification of the member's retirement allowance that shall be payable through the life of the member and the member's new spouse or registered domestic partner. Modification of the member's retirement allowance pursuant to this section shall be based on the ages of the retired member and the retired member's new spouse or registered domestic partner as of the effective date of the election.

SEC. 14. Section 24309 of the Education Code is amended to read:

24309. (a) A member may change or cancel the election of an option made pursuant to Section 24307. The change or cancellation shall be on a properly executed form provided by the system and received at the system's headquarters office, as established pursuant to Section 22375,

within 30 days of the date of the member's signature and on or before the effective date of retirement under this part or during the period between termination of the retirement allowance pursuant to Section 24208 or 24117 and the effective date of the subsequent retirement under this part. The change or cancellation shall become effective as of the date of the member's signature.

(1) Any change to an election of an option shall be made according to Section 24307 and shall be considered a new preretirement election of an option.

(2) Regardless of how the member elects to receive his or her retirement allowance, a change made to an election of an option or a cancellation of an option shall result in the reduction of that allowance by an amount determined by the board to be the actuarial equivalent of the coverage the member received as a result of the preretirement election and that does not result in any adverse funding to the plan.

(b) If the option beneficiary designated in the preretirement election of an option pursuant to Section 24307 dies prior to the member's retirement, the preretirement election shall be canceled as of the day following the date of death and the member's subsequent retirement allowance under this part shall be subject to the allowance reduction prescribed in this section.

(c) If the option elected pursuant to Section 24307 is Option 8 as described in paragraph (7) of subdivision (a) of Section 24300 or the compound option as described in paragraph (4) of subdivision (a) of Section 24300.1, a member may cancel the designation of an option beneficiary. If the member cancels the designation of the option beneficiary or the option beneficiary predeceases the member prior to the member's retirement, the member may elect to receive that portion of the retirement allowance without modification for the option or elect one or multiple new or existing option beneficiaries as described in Section 24307. Any change or cancellation of the designation of the option beneficiary under this subdivision shall result in the allowance reduction prescribed in this section.

SEC. 15. Section 24410.7 of the Education Code is amended to read:

24410.7. (a) The monthly allowance payable on the effective date of this section, excluding annuities payable from accumulated annuity deposit contributions and tax-sheltered annuity contributions and benefits payable pursuant to Sections 24410.5 and 24410.6, to retired members and nonmember spouses, disabled members, and beneficiaries, including option beneficiaries, shall be increased by the percentage set forth opposite the applicable period during which retirement, disability, or death occurred set forth in the following schedule:

Period during which retirement, disability, or death occurred:	Percentage:
36 months ending Dec. 31, 2000	0.0%
12 months ending Dec. 31, 1997	1.0%
24 months ending Dec. 31, 1996	2.0%
60 months ending Dec. 31, 1994	3.0%
60 months ending Dec. 31, 1989	4.0%
120 months ending Dec. 31, 1984	5.0%
Dec. 31, 1974 or earlier	6.0%

(b) The increase provided pursuant to this section is in addition to any payments received by a retired member or nonmember spouse, disabled member, or beneficiary, including an option beneficiary, under Section 24415.

(c) If the monthly allowance payable is adjusted after the effective date of this section, the percentage increase applied on the effective date of this section shall be applied to the adjusted monthly allowance payable.

(d) Benefits payable under this section shall be initially payable by the system on or before July 1, 2001.

SEC. 16. Section 24617 of the Education Code is amended to read:

24617. (a) To recover an amount overpaid under this part or Part 14 (commencing with Section 26000), the corrected monthly allowance payable under the Defined Benefit Program or benefit payable under the Defined Benefit Supplement Program or the Cash Balance Benefit Program may be reduced by no more than 5 percent if the overpayment was due to error by the system, the county superintendent of schools, a school district, or a community college district, and by no more than 15 percent if the error was due to inaccurate information or nonsubmission of information by the recipient of the allowance or benefit.

(b) This section does not apply to the collection of overpayments due to fraud or intentional misrepresentation of facts by the recipient of the allowance or benefit.

SEC. 17. Section 24976 of the Education Code is amended to read:

24976. (a) (1) The Teachers' Deferred Compensation Fund is hereby established to serve as the repository of funds received by the system pursuant to this chapter, Chapter 36 (commencing with Section 24950) or Chapter 39 (commencing with Section 25100).

(2) Except as described in paragraph (6), premium and fee revenues received by the system pursuant to Chapter 36 (commencing with Section 24950) shall be deposited into the 403(b) Services Operating Account within the Teachers' Deferred Compensation Fund, and shall only be used to carry out the purposes of that chapter.

(3) Premium and fee revenues received by the system pursuant to this chapter shall be deposited into the Deferred Compensation Services Operating Account within the Teachers' Deferred Compensation Fund, and shall only be used to carry out the purposes of this chapter.

(4) Compensation deferrals received by the system pursuant to this chapter shall be deposited into the Deferred Compensation Investment Account within the Teachers' Deferred Compensation Fund, and shall only be used to carry out the purposes of this chapter.

(5) Fee revenues received by the system pursuant to Chapter 39 (commencing with Section 25100) shall be deposited into the 403(b) Vendor Registry Operating Account within the Teachers' Deferred Compensation Fund, and shall only be used to carry out the purposes of that chapter.

(6) Fee revenues received by the system pursuant to Sections 24953 and 24977, and any assets in the Teachers' Retirement Program Development Fund pursuant to Section 22307.5 as of January 1, 2008, shall be deposited into the Deferred Compensation Administrative and Compliance Services Operating Account within the Teachers' Deferred Compensation Fund, and shall only be used to carry out the purposes of Sections 24953 and 24977.

(7) Notwithstanding Section 13340 of the Government Code, all moneys in the Teachers' Deferred Compensation Fund shall be continuously appropriated without regard to fiscal year to carry out the purposes of this chapter, Chapter 36 (commencing with Section 24950), and Chapter 39 (commencing with Section 25100).

(b) With respect to deferred compensation plans administered pursuant to this chapter, and notwithstanding any other provision of law, the system may retain a bank or trust company, or a credit union, to serve as custodian of the moneys of the Teachers' Deferred Compensation Fund and to provide for safekeeping, recordkeeping, delivery, securities valuation, or investment performance reporting services, or services in connection with investment of the Teachers' Deferred Compensation Fund.

(c) With respect to deferred compensation plans administered pursuant to this chapter, the Teachers' Deferred Compensation Fund shall consist of the following sources and receipts, and disbursements shall be accounted for as set forth below:

(1) Premiums determined by the system and paid by participating employers and employees for the cost of administering the deferred compensation plan.

(2) Asset management fees as determined by the system assessed against investment earnings of investment option or of other investment

funds. These fees shall be disclosed to employees participating in the deferred compensation plan.

(3) Compensation deferrals to be paid in monthly installments by employers sponsoring deferred compensation plans described in Section 24975 for investment by the system. The moneys shall be deposited in the investment corpus account within the Teachers' Deferred Compensation Fund and invested in accordance with the investment options selected by the participating employee.

(4) Disbursements to participating employees shall be paid from a disbursement account within the Teachers' Deferred Compensation Fund in accordance with applicable federal law pertaining to deferred compensation plans.

(5) Income, of whatever nature, earned on the Teachers' Deferred Compensation Fund shall be credited to the appropriate account. The accounts of participating employees of the employer shall be individually posted to reflect amounts of compensation deferred and investment gains and losses. A periodic statement shall be given to each participating employee.

(6) The system shall have exclusive control of the administration and investment of the Teachers' Deferred Compensation Fund.

(7) All of the system's costs of administering the deferred compensation plans pursuant to this chapter shall be recovered from the employees who participate in the plans or assets of the Teachers' Deferred Compensation Fund in a manner acceptable to the board.

SEC. 18. Section 25009 of the Education Code is amended to read:

25009. (a) A member's retirement benefit under the Defined Benefit Supplement Program shall be an amount equal to the balance of credits in the member's Defined Benefit Supplement account on the date the retirement benefit becomes payable.

(b) A retirement benefit shall be a lump-sum payment, or an annuity payable in monthly installments, or a combination of both a lump-sum payment and an annuity, as elected by the member on the application for a retirement benefit. Any retirement benefit paid as an annuity under this chapter shall be subject to Section 25011 or 25011.1.

(c) Upon distribution of the entire retirement benefit in a lump-sum payment, no other benefit shall be payable to the member or the member's beneficiary under the Defined Benefit Supplement Program.

(d) A member may not apply a lump-sum payment made to the member pursuant to this section for any of the following purposes:

(1) Purchasing service credit pursuant to Chapter 14 (commencing with Section 22800), Chapter 14.2 (commencing with Section 22820), or Chapter 14.5 (commencing with Section 22850).

(2) Redepositing previously refunded retirement contributions pursuant to Chapter 19 (commencing with Section 23200).

SEC. 19. Section 44041 of the Education Code is amended to read:

44041. (a) (1) The governing board of each school district when drawing an order for the salary payment due to employees of the district shall, without charge, reduce the order by the amount which it has been requested in a revocable written authorization by the employee to deduct for any or all of the following purposes:

(A) Paying premiums on any policy or certificate of group life insurance for the benefit of the employee or for group disability insurance, or legal expense insurance, or any of them, for the benefit of the employee or his or her dependents issued by an admitted insurer on a form of policy or certificate approved by the Insurance Commissioner.

(B) Paying rates, dues, fees, or other periodic charges on any hospital service contract for the benefit of the employee, or his or her dependents, issued by a nonprofit hospital service corporation on a form approved by the Insurance Commissioner pursuant to the former provisions of Chapter 11A (commencing with Section 11491) of Part 2 of Division 2 of the Insurance Code.

(C) Paying periodic charges on any medical and hospital service agreement or contract for the benefit of the employee, or his or her dependents, issued by a nonprofit corporation subject to Part 2 (commencing with Section 5110) of, Part 3 (commencing with Section 7110) of, or Part 11 (commencing with Section 10810) of, Division 2 of Title 1 of the Corporations Code.

(D) Paying periodic charges on any legal services contract for the benefit of the employee, or his or her dependents issued by a nonprofit corporation subject to Part 3 (commencing with Section 7110) of, or Part 11 (commencing with Section 10810) of, Division 2 of Title 1 of the Corporations Code.

(2) The requirements of this subdivision shall not apply to subdivision (b).

(b) For purposes of a deferred compensation plan authorized by Section 403(b) or 457 of the Internal Revenue Code or an annuity program authorized by Section 403(b) of the Internal Revenue Code that is offered by the school district which provides for investments in corporate stocks, bonds, securities, mutual funds, or annuities, except as prohibited by the California Constitution, the governing board of each school district when drawing an order for the salary payment due to an employee of the district shall, with or without charge, reduce the order by the amount which it has been requested in a revocable written authorization by the employee to deduct for participating in a deferred compensation plan or annuity program offered by the school district.

The governing board shall determine the cost of performing the requested deduction and may collect that cost from the organization, entity, or employee requesting or authorizing the deduction. For purposes of this subdivision, the governing board of a school district is entitled to include in the amounts reducing the order the costs of any compliance or administrative services that are required to perform the requested deduction in compliance with federal or state law, and may collect these costs from the participating employee, the employee's participant account, or the organization or entity authorizing the deduction.

(c) The governing board of the district shall, beginning with the month designated by the employee and each month thereafter until authorization for the deduction is revoked, draw its order upon the funds of the district in favor of the insurer which has issued the policies or certificates or in favor of the nonprofit hospital service corporation which has issued hospital service contracts, or in favor of the nonprofit corporation which has issued medical and hospital service or legal service agreements or contracts, for an amount equal to the total of the respective deductions therefor made during the month. The governing board may require that the employee submit his or her authorization for the deduction up to one month in advance of the effective date of coverage.

(d) "Group insurance" as used in this section shall mean only a bona fide group program of life or disability or life and disability insurance where a master contract is held by the school district or an employee organization but it shall, nevertheless, include annuity programs authorized by Section 403(b) of the Internal Revenue Code when approved by the governing board.

SEC. 20. Section 44830.3 of the Education Code is amended to read:

44830.3. (a) The governing board of any school district that maintains prekindergarten, kindergarten, or grades 1 to 12, inclusive, classes in bilingual education, or special education programs for pupils with mild and moderate disabilities, may, in consultation with an accredited institution of higher education offering an approved program of pedagogical teacher preparation, employ persons authorized by the Commission on Teacher Credentialing to provide service as district interns to provide instruction to pupils in those grades or classes as a classroom teacher. The governing board shall require that each district intern be assisted and guided by a certificated employee selected through a competitive process adopted by the governing board after consultation with the exclusive teacher representative unit or by personnel employed by institutions of higher education to supervise student teachers. These certificated employees shall possess valid certification at the same level, or of the same type of credential, as the district interns they serve.

(b) The governing board of each school district employing district interns shall develop and implement a professional development plan for district interns in consultation with an accredited institution of higher education offering an approved program of pedagogical preparation. The professional development plan shall include all of the following:

(1) Provisions for an annual evaluation of the district intern.

(2) As the governing board determines necessary, a description of courses to be completed by the district intern, if any, and a plan for the completion of preservice or other clinical training, if any, including student teaching.

(3) Mandatory preservice training for district interns tailored to the grade level or class to be taught, through either of the following options:

(A) One hundred twenty clock hours of preservice training and orientation in the aspects of child development, classroom organization and management, pedagogy, and methods of teaching the subject field or fields in which the district intern will be assigned, which training and orientation period shall be under the direct supervision of an experienced permanent teacher. In addition, persons holding district intern certificates issued by the commission pursuant to Section 44325 shall receive orientation in methods of teaching pupils with mild and moderate disabilities. At the conclusion of the preservice training period, the permanent teacher shall provide the district with information regarding the area that should be emphasized in the future training of the district intern.

(B) The successful completion, prior to service by the intern in any classroom, of six semester units of coursework from a regionally accredited college or university, designed in cooperation with the school district to provide instruction and orientation in the aspects of child development and the methods of teaching the subject matter or matters in which the district intern will be assigned.

(4) Instruction in child development and the methods of teaching during the first semester of service for district interns teaching in prekindergarten, kindergarten, or grades 1 to 6, inclusive, including bilingual education classes and, for persons holding district intern certificates issued by the commission pursuant to Section 44325, special education programs for pupils with mild and moderate disabilities at those levels.

(5) Instruction in the culture and methods of teaching bilingual pupils during the first year of service for district interns teaching pupils in bilingual classes and, for persons holding district intern certificates issued by the commission pursuant to Section 44325, instruction in the etiology and methods of teaching pupils with mild and moderate disabilities.

(6) Any other criteria that may be required by the governing board.

(7) In addition to the requirements set forth in paragraphs (1) to (6), inclusive, the professional development plan for district interns teaching in special education programs for pupils with mild and moderate disabilities shall also include 120 clock hours of mandatory training and supervised fieldwork that shall include, but not be limited to, instructional practices, and the procedures and pedagogy of both general education programs and special education programs that teach pupils with disabilities.

(8) In addition to the requirements set forth in paragraphs (1) to (6), inclusive, the professional development plan for district interns teaching bilingual classes shall also include 120 clock hours of mandatory training and orientation, which shall include, but not be limited to, instruction in subject matter relating to bilingual-crosscultural language and academic development.

(9) The professional development plan for district interns teaching in special education programs for pupils with mild and moderate disabilities shall be based on the standards adopted by the commission as provided in subdivision (a) of Section 44327.

(c) Each district intern and each district teacher assigned to supervise the district intern during the preservice period shall be compensated for the preservice period required pursuant to subparagraph (A) or (B) of paragraph (3) of subdivision (b). The compensation shall be that which is normally provided by each district for staff development or in-service activity.

(d) Upon completion of service sufficient to meet program standards and performance assessments, the governing board may recommend to the Commission on Teacher Credentialing that the district intern be credentialed in the manner prescribed by Section 44328.

CHAPTER 324

An act to add Article 9.5 (commencing with Section 587) to Chapter 3 of Division 1 of, and to add Chapter 3 (commencing with Section 29810) to Division 13 of, the Food and Agricultural Code, relating to agriculture.

[Filed with Secretary of State October 8, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Article 9.5 (commencing with Section 587) is added to Chapter 3 of Division 1 of the Food and Agricultural Code, to read:

Article 9.5. Coexistence Working Groups

587. The Legislature finds and declares the following:

(a) The Legislature supports the agricultural community's efforts to promote choices of farming methods, practices, and crops.

(b) The Legislature also recognizes the economic and other value to the State of California in diversified agricultural industries, bolstered by mutually supportive coexistence within and among its sectors; and further appreciates the value and importance of agricultural research for the benefit not only of California's farming community, but also farmers and people around the world.

588. (a) When conflicts arise between sectors of agriculture, the secretary may designate agricultural coexistence working groups to work towards conflict resolution.

(b) The members of a coexistence working group shall be appointed by, and serve at the pleasure of, the secretary. Each working group shall be comprised of no more than 10 members of diverse qualifications, who shall serve without compensation and within existing departmental resources, to develop, review, and provide findings and recommendations to the secretary regarding specific issues pertaining to the coexistence of various sectors of agricultural production that present or might present conflicts with one another. Each working group shall be comprised primarily of affected growers or their representatives from a cross section of the interested stakeholders and may also include representatives of related industries, academia, or relevant governmental agencies.

(c) In developing its findings and recommendations for the secretary, a working group may do any of the following:

(1) Recognize the economic, human, and environmental benefits of coexistence among diversified agricultural industries by developing best management practices designed to foster coexistence between the various segments of food, fiber, and agriculturally derived energy production.

(2) Identify a means of maximizing coordination and communication among those involved in sectors of agricultural production that are in real, potential, or perceived conflict with one another, and consider issues relevant to coexistence, including, but not limited to, developing consensus on voluntary production practices and protections.

(3) Work in concert with the State Board of Food and Agriculture, and provide a forum for fostering a broad-based dialogue on agricultural production practices related to coexistence, founded on facts and demonstrable applied and practical science. If data is lacking, the working group may also propose research programs to provide information on which to base further recommendations.

SEC. 2. Chapter 3 (commencing with Section 29810) is added to Division 13 of the Food and Agricultural Code, to read:

Chapter 3. Seedless Mandarin and Honeybee Coexistence Working Group Act

29810. (a) The Legislature finds and declares all of the following:

(1) The California citrus industry is in the process of adapting to a more competitive marketplace and to consumer tastes that continue to change. In the past five years, an estimated 40,000 acres of citrus have been removed from production and replaced with new varieties of citrus, a majority of which is mandarin fruit commonly called Clementines or W. Murcotts, which are intended to be seedless.

(2) According to the 2005 California Citrus Acreage Report, these varieties have increased substantially. In 2004, more than 10,000 acres of these varieties were bearing fruit. Another 2,000 acres began bearing fruit in 2005. The same report states that an additional 12,000 acres of these varieties have been planted but have yet to bear fruit. This production will come into maturity within the next three years, and more is being planted.

(3) Due to the production of other agricultural products in proximity to new seedless varieties of citrus, the production of these varieties may be in jeopardy. According to a University of California at Riverside study published in June of 2005, seedless mandarins command three to four times as much revenue as seeded mandarins. Other citrus-producing nations around the world have adopted citrus protection areas to limit damage created by cross-pollination.

(4) Honeybees are an essential component of agriculture as they pollinate approximately $6 billion worth of crops in California. Historically, honeybee colonies are placed in the citrus belt of Kern, Tulare, Fresno, and Madera Counties to support existing agricultural practices, including the pollination of several commodities and the production of honey. Colony Collapse Disorder has reduced the nation's bee population by 25 percent in the past three years, which in turn has created pressure on other agricultural sectors that rely on a healthy bee population for pollination of their crops.

(b) Any regulation or best management practice adopted pursuant to this chapter shall not affect the actual pollination process of other commodities during their blooming cycle, nor shall it be implemented when almonds, avocados, peaches, plums, nectarines, seed crops, or other commodities require pollination.

(c) Any regulation or best management practice adopted pursuant to this chapter shall not affect the ability of property owners located within

the area impacted by the regulation or best management practice to farm any commercial crop, including, but not limited to, honey, citrus, and other commodities recognized by the Department of Food and Agriculture.

29811. (a) Not later than 15 days after enactment of this chapter, the secretary shall designate a Seedless Mandarin and Honeybee Coexistence Working Group from recommendations received by interested stakeholders. The Seedless Mandarin and Honeybee Coexistence Working Group shall be established pursuant to the procedures set forth in subdivision (b) of Section 588. For purposes of this chapter, "grower," as used in subdivision (b) of Section 588, includes a beekeeper.

(b) The Seedless Mandarin and Honeybee Coexistence Working Group shall meet on a regular and consistent basis in an effort to develop best management practices that address the coexistence issues related to production of seedless mandarin varieties located in Fresno, Kern, Madera, and Tulare Counties, while providing for the reasonable access to citrus for the California bee industry.

29812. The secretary shall give the Seedless Mandarin and Honeybee Coexistence Working Group reasonable time to develop best management practices described in Section 29810.

(a) If the Seedless Mandarin and Honeybee Coexistence Working Group reaches consensus of best management practices prior to June 1, 2008, the secretary may adopt regulations if, in the secretary's judgment, this action is necessary to implement and enforce the best management practices.

(b) If the Seedless Mandarin and Honeybee Coexistence Working Group fails to reach consensus on best management practices by June 1, 2008, the secretary shall adopt regulations no later than February 1, 2009. Regulations adopted pursuant to this section shall be limited to Fresno, Kern, Madera, and Tulare Counties, address the coexistence issues related to production of seedless mandarin varieties, and allow seedless mandarin producers to meet retail standards for seedless fruit, while providing reasonable access to citrus for the California bee industry. The regulations adopted may include the establishment of fees, not to exceed the cost of the program, to be paid by seedless mandarin growers, subject to this chapter.

CHAPTER 325

An act to amend Section 27156 of the Vehicle Code, relating to vehicles.

[Approved by Governor October 8, 2007. Filed with
Secretary of State October 8, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 27156 of the Vehicle Code is amended to read:

27156. (a) No person shall operate or leave standing upon a highway a motor vehicle that is a gross polluter, as defined in Section 39032.5 of the Health and Safety Code.

(b) No person shall operate or leave standing upon a highway a motor vehicle that is required to be equipped with a motor vehicle pollution control device under Part 5 (commencing with Section 43000) of Division 26 of the Health and Safety Code or any other certified motor vehicle pollution control device required by any other state law or any rule or regulation adopted pursuant to that law, or required to be equipped with a motor vehicle pollution control device pursuant to the National Emission Standards Act (42 U.S.C. Secs. 7521 to 7550, inclusive) and the standards and regulations adopted pursuant to that federal act, unless the motor vehicle is equipped with the required motor vehicle pollution control device that is correctly installed and in operating condition. No person shall disconnect, modify, or alter any such required device.

(c) No person shall install, sell, offer for sale, or advertise any device, apparatus, or mechanism intended for use with, or as a part of, a required motor vehicle pollution control device or system that alters or modifies the original design or performance of the motor vehicle pollution control device or system.

(d) If the court finds that a person has willfully violated this section, the court shall impose the maximum fine that may be imposed in the case, and no part of the fine may be suspended.

(e) "Willfully," as used in this section, has the same meaning as the meaning of that word prescribed in Section 7 of the Penal Code.

(f) No person shall operate a vehicle after notice by a traffic officer that the vehicle is not equipped with the required certified motor vehicle pollution control device correctly installed in operating condition, except as may be necessary to return the vehicle to the residence or place of business of the owner or driver or to a garage, until the vehicle has been properly equipped with such a device.

(g) The notice to appear issued or complaint filed for a violation of this section shall require that the person to whom the notice to appear is issued, or against whom the complaint is filed, produce proof of correction pursuant to Section 40150 or proof of exemption pursuant to Section 4000.1 or 4000.2.

(h) This section shall not apply to an alteration, modification, or modifying device, apparatus, or mechanism found by resolution of the State Air Resources Board to do either of the following:

(1) Not to reduce the effectiveness of a required motor vehicle pollution control device.

(2) To result in emissions from the modified or altered vehicle that are at levels that comply with existing state or federal standards for that model-year of the vehicle being modified or converted.

(i) Aftermarket and performance parts with valid State Air Resources Board Executive Orders may be sold and installed concurrent with a motorcycle's transfer to an ultimate purchaser.

(j) This section applies to motor vehicles of the United States or its agencies, to the extent authorized by federal law.

CHAPTER 326

An act to amend Sections 12800, 12805, and 12820 of, and to add Section 12836 to, the Insurance Code, relating to insurance.

[Approved by Governor October 8, 2007. Filed with Secretary of State October 8, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 12800 of the Insurance Code is amended to read:

12800. The following definitions apply for purposes of this part:

(a) "Motor vehicle" means a self-propelled device operated solely or primarily upon land and may include both self-propelled motor homes or recreational vehicles, non-self-propelled camping and recreational trailers, off-road vehicles, and trailers designed to transport off-road vehicles. However, "motor vehicle" shall not include a self-propelled vehicle, or a component part of such a vehicle, that has any of the following characteristics:

(1) Has a gross vehicle weight rating of 30,000 pounds or more, and is not a recreational vehicle as defined by Section 18010 of the Health and Safety Code.

(2) Is designed to transport more than 15 passengers, including the driver.

(3) Is used in the transportation of materials considered hazardous pursuant to the Hazardous Materials Transportation Act (49 U.S.C. Sec. 5101 et seq.), as amended.

(b) "Watercraft" means a vessel, as defined in Section 21 of the Harbors and Navigation Code, and may include any non-self-propelled trailer used to transport such watercraft upon land.

(c) (1) "Vehicle service contract" means a contract or agreement for a separately stated consideration and for a specific duration to repair, replace, or maintain a motor vehicle or watercraft, or to indemnify for the repair, replacement, or maintenance of a motor vehicle or watercraft, necessitated by an operational or structural failure due to a defect in materials or workmanship, or due to normal wear and tear.

(2) A vehicle service contract may also provide for the incidental payment of indemnity under limited circumstances only in the form of the following additional benefits: coverage for towing, substitute transportation, emergency road service, rental car reimbursement, reimbursement of deductible amounts under a manufacturer's warranty, and reimbursement for travel, lodging, or meals.

(3) "Vehicle service contract" also includes an agreement of a term of at least one year, for separately stated consideration, that promises routine maintenance.

(4) Notwithstanding Section 116, and paragraphs (1) and (2) of this subdivision, a vehicle service contract also includes one or more of the following:

(A) An agreement that promises the repair or replacement of a tire or wheel necessitated by wear and tear, defect, or damage caused by a road hazard. However, an agreement that promises the repair or replacement of a tire necessitated by wear and tear, defect, or damage caused by a road hazard, in which the obligor is the tire manufacturer, is exempt from the requirements of this part. A warranty provided by a tire or wheel distributor or retailer is exempt from the requirements of this part as long as the warranty covers only defects in the material or workmanship of the tire or wheel.

(B) An agreement that promises the repair or replacement of glass on a vehicle necessitated by wear and tear, defect, or damage caused by a road hazard. However, a warranty provided by a vehicle glass manufacturer is exempt from the requirements of this part. A warranty provided by a vehicle glass distributor or retailer is exempt from the requirements of this part as long as the warranty covers only defects in the material or workmanship of the vehicle glass.

(C) An agreement that promises the removal of a dent, ding, or crease without affecting the existing paint finish using paintless dent repair techniques, and which expressly excludes the replacement of vehicle body panels, sanding, bonding, or painting.

(d) "Service contract administrator" or "administrator" means any person, other than an obligor, who performs or arranges, directly or

indirectly, the collection, maintenance, or disbursement of moneys to compensate any party for claims or repairs pursuant to a vehicle service contract, and who also performs or arranges, directly or indirectly, any of the following activities with respect to vehicle service contracts in which a seller located within this state is the obligor:

(1) Providing sellers with service contract forms.

(2) Participating in the adjustment of claims arising from service contracts.

(e) "Purchaser" means any person who purchases a vehicle service contract from a seller.

(f) "Seller" means either of the following:

(1) With respect to motor vehicles, a dealer or lessor-retailer licensed in one of those capacities by the Department of Motor Vehicles and who sells vehicle service contracts incidental to his or her business of selling or leasing motor vehicles.

(2) With respect to watercraft, a person who sells vehicle service contracts incidental to that person's business of selling or leasing watercraft vehicles.

(g) "Obligor" means the entity legally obligated under the terms of a service contract.

SEC. 2. Section 12805 of the Insurance Code is amended to read:

12805. (a) Notwithstanding Sections 103 and 116, the following types of agreements shall not constitute insurance:

(1) A vehicle service contract that does each of the following:

(A) Names as the obligor a motor vehicle manufacturer or distributor licensed in that capacity by the Department of Motor Vehicles, or a watercraft manufacturer.

(B) Covers only motor vehicles or watercraft manufactured, distributed, or sold by that obligor.

(2) A vehicle service contract in which the obligor is a seller, provided that the obligor complies with all provisions of this part except Section 12815.

(3) A vehicle service contract sold by a seller in which the obligor is a party other than the seller, provided that the obligor complies with all provisions of this part.

(4) An agreement in which the obligor is a motor vehicle or watercraft part manufacturer, distributor, or retailer, that covers no more than the following items:

(A) The repair or replacement of a part manufactured, distributed, or retailed by that obligor.

(B) Consequential and incidental damage resulting from the failure of that part.

(5) An agreement in which the obligor is a repair facility, that is entered into pursuant and subsequent to repair work previously performed by that repair facility, and that is limited in scope to the following:

(A) The repair or replacement of the part that was previously repaired.

(B) Consequential and incidental damage resulting from the failure of that part.

(6) An agreement promising only routine maintenance that does not constitute a vehicle service contract.

(b) The types of agreements described in paragraphs (4), (5), and (6) of subdivision (a) are exempt from all provisions of this part.

(c) Vehicle service contracts described in paragraph (1) of subdivision (a) are exempt from the provisions of Sections 12815, 12830, 12835, and 12845.

SEC. 3. Section 12820 of the Insurance Code is amended to read:

12820. (a) Prior to offering a vehicle service contract form to a purchaser or providing a vehicle service contract form to a seller, an obligor shall file with the commissioner a specimen of that vehicle service contract form.

(b) A vehicle service contract form may include any or all of the benefits described in subdivision (c) of Section 12800 and shall comply with all of the following requirements:

(1) (A) If an obligor has complied with Section 12830, the vehicle service contract shall include a disclosure in substantially the following form: "Performance to you under this contract is guaranteed by a California approved insurance company. You may file a claim with this insurance company if any promise made in the contract has been denied or has not been honored within 60 days after your request. The name and address of the insurance company is: (insert name and address). If you are not satisfied with the insurance company's response, you may contact the California Department of Insurance at 1-800-927-4357."

(B) If an obligor has complied with Section 12836, the vehicle service contract shall include a disclosure in substantially the following form: "If any promise made in the contract has been denied or has not been honored within 60 days after your request, you may contact the California Department of Insurance at 1-800-927-4357."

(2) All vehicle service contract language that excludes coverage, or imposes duties upon the purchaser, shall be conspicuously printed in boldface type no smaller than the surrounding type.

(3) The vehicle service contract shall do each of the following:

(A) State the obligor's full corporate name or a fictitious name approved by the commissioner, the obligor's mailing address, the obligor's telephone number, and the obligor's vehicle service contract provider license number.

(B) State the name of the purchaser and the name of the seller.

(C) Conspicuously state the vehicle service contract's purchase price.

(D) Comply with Sections 1794.4 and 1794.41 of the Civil Code.

(E) Name the administrator, if any, and provide the administrator's license number.

(4) If the vehicle service contract excludes coverage for preexisting conditions, the contract must disclose this exclusion in 12-point type.

(c) The following benefits constitute insurance, whether offered as part of a vehicle service contract or in a separate agreement:

(1) Indemnification for a loss caused by misplacement, theft, collision, fire, or other peril typically covered in the comprehensive coverage section of an automobile insurance policy, a homeowner's policy, or a marine or inland marine policy.

(2) Locksmith services, unless offered as part of an emergency road service benefit.

SEC. 4. Section 12836 is added to the Insurance Code, to read:

12836. In lieu of complying with Section 12830, an obligor or its parent company may establish to the commissioner's satisfaction that it possesses a net worth of one hundred million dollars ($100,000,000). The obligor shall, upon request, provide the commissioner with all documents and affidavits necessary to establish the net worth, including, but not limited to, a copy of the obligor's financial statements or the obligor's parent company's financial statements, and affidavits by the president and chief financial officer attesting to the net worth of the obligor or the obligor's parent company. If the obligor elects to meet the net worth requirement through the parent company, the parent company shall agree in writing to guarantee the obligations of the obligor relating to contracts of the obligor issued in this state.

CHAPTER 327

An act to amend Sections 31520.1, 31580.2, 31694, 31694.1, and 31694.2 of, and to add and repeal Section 31580.3 of, the Government Code, relating to county employees' retirement.

[Approved by Governor October 8, 2007. Filed with Secretary of State October 8, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 31520.1 of the Government Code is amended to read:

31520.1. (a) In any county subject to Articles 6.8 (commencing with Section 31639) and 7.5 (commencing with Section 31662.2), the board of retirement shall consist of nine members and one alternate, one of whom shall be the county treasurer. The second and third members of the board shall be members of the association, other than safety members, elected by those members within 30 days after the retirement system becomes operative in a manner determined by the board of supervisors. The fourth, fifth, sixth, and ninth members shall be qualified electors of the county who are not connected with the county government in any capacity, except one may be a supervisor, and shall be appointed by the board of supervisors. A supervisor appointed as a member of the retirement board may not serve beyond his or her term of office as supervisor. The seventh member shall be a safety member of the association elected by the safety members. The eighth member shall be a retired member elected by the retired members of the association in a manner to be determined by the board of supervisors. The alternate member shall be that candidate, if any, for the seventh member from the group under Section 31470.2 or 31470.4, or any other eligible safety member in a county if there is no eligible candidate from the groups under Sections 31470.2 and 31470.4, which is not represented by a board member who received the highest number of votes of all candidates in that group. If there is no eligible candidate there may not be an alternate member. The first person chosen as the second and fourth members shall serve for a term of two years beginning with the date the system becomes operative, the third and fifth members shall serve for a term of three years beginning with that date, and the sixth, seventh and alternate members shall serve for a term of two years beginning January 1, 1952, or the date on which a retirement system established by this chapter becomes operative, whichever is the later. The eighth and ninth members shall take office as soon as practicable for an initial term to expire concurrent with the expiration of the longest remaining term of an elected member. Thereafter, the terms of office of the elected, appointed, and alternate members are three years.

(b) The alternate member provided for by this section shall vote as a member of the board only if the second, third, seventh, or eighth member is absent from a board meeting for any cause, or if there is a vacancy with respect to the second, third, seventh, or eighth member, the alternate member shall fill the vacancy until a successor qualifies. The alternate member shall sit on the board in place of the seventh member if a member of the same service is before the board for determination of his or her retirement.

(c) Unless prohibited by a resolution or regulation of the board, the alternate member shall be entitled to both of the following:

(1) The alternate member shall have the same rights, privileges, responsibilities, and access to closed sessions as the second, third, seventh, and eighth member.

(2) The alternate member may hold positions on committees of the board independent of the second, third, seventh, or eighth member and may participate in the deliberations of the board or its committees whether or not the second, third, seventh, or eighth member is present.

(d) The amendments to this section during the 1972 Regular Session do not affect the continuation on the board of retired members appointed by the board of supervisors until the expiration of the term for which they were appointed.

SEC. 2. Section 31580.2 of the Government Code is amended to read:

31580.2. In counties in which the board of retirement, or the board of retirement and the board of investment, have appointed personnel pursuant to Section 31522.1 or 31522.5, or both, the respective board or boards shall annually adopt a budget covering the entire expense of administration of the retirement system which expense shall be charged against the earnings of the retirement fund. Except as described in Section 31580.3, the expense incurred in any year may not exceed eighteen hundredths of 1 percent of the total assets of the retirement system.

SEC. 3. Section 31580.3 is added to the Government Code, to read:

31580.3. (a) If during any year the expense of administration of the retirement system includes expenditures for software, hardware, and computer technology consulting services in support of that software or hardware, the expense incurred may not exceed the greater of the following:

(1) The sum of eighteen hundredths of 1 percent of the total assets of the retirement system plus one million dollars ($1,000,000).

(2) Twenty-three hundredths of 1 percent of the total assets of the retirement system.

(b) This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

SEC. 4. Section 31694 of the Government Code is amended to read:

31694. (a) The board of supervisors of a county or the governing body of a district or other public entity may, by ordinance or resolution and with the agreement of the board of retirement, provide for the contribution of funds by the county, a district, or other public entity into a Post-Employment Benefits Trust Account. The retirement system may establish the Post-Employment Benefits Trust Account as a part of the retirement fund. The Post-Employment Benefits Trust Account shall be established for the sole purpose of funding the benefits provided under

a post-employment group health, life, welfare, or other supplemental benefits plan or plans established and maintained by the county or district, which plan or plans may provide for self-insured coverage or the payment of all or a portion of the premiums on one or more insurance contracts or health care service plan contracts for retired employees of the participating county, district, or other public entity, and their qualified spouses, dependents and beneficiaries.

(b) Contributions to the Post-Employment Benefits Trust Account may include the proceeds of debt issued by the county, a district, or other public entity solely for the purpose of funding post-employment health, life, welfare, or other supplemental benefits.

(c) The post-employment benefits provided with the funds contributed to the Post-Employment Benefits Trust Account are in addition to any other benefits provided under this chapter.

(d) (1) Except as described in subdivision (b) of Section 31694.1, the assets of the retirement fund may not be used, directly or indirectly, to pay the cost of any benefits provided through the Post-Employment Benefits Trust Account or, except to the extent allowed by federal tax law, to pay any direct or indirect cost of administering the Post-Employment Benefits Trust Fund.

(2) Except as described in subdivision (c) of Section 31694.1, funds in the Post-Employment Benefits Trust Account may not be used, directly or indirectly, to pay the cost of any other benefits provided under this chapter.

SEC. 5. Section 31694.1 of the Government Code is amended to read:

31694.1. (a) The retirement system shall separately account for the funds contributed to the Post-Employment Benefits Trust Account by each participating employer and the earnings and expenses related to the investment and administration of those funds.

(b) The board of retirement, or a board of investments in a county in which a board of investments has been established pursuant to Section 31520.2, shall have sole, exclusive, and plenary authority and fiduciary responsibility over the investment of the funds in the Post-Employment Benefits Trust Account, consistent with Sections 31594 and 31595, and as provided for in Section 17 of Article XVI of the California Constitution. The board of retirement or board of investments may invest funds in the Post-Employment Benefits Trust Account with those of the retirement system, to the extent allowed by federal tax laws. The investment earnings and investment expenses attributable to the investment activity of the Post-Employment Benefits Trust Account shall be accounted for separately from the investment earnings and expenses of the retirement fund.

(c) The funds in and investment earnings of the Post-Employment Benefits Trust Account shall be used to pay the reasonable costs related to investment expenses and administration of the Post-Employment Benefits Trust Account to the extent allowed by federal tax law. Those expenses shall not be deemed to be an investment or administrative expense of a retirement system under this chapter.

(d) The board of retirement, or a board of investments in a county in which a board of investments has been established pursuant to Section 31520.2, may establish rules and procedures governing the investments and administration of the Post-Employment Benefits Trust Account. The board of retirement or the board of investments shall determine the rate of interest to credit the funds in the Post-Employment Benefits Trust Account.

(e) The board of retirement, or a board of investments in a county in which a board of investments has been established pursuant to Section 31520.2, is authorized to take any and all actions necessary to establish and administer the Post-Employment Benefits Trust Account in compliance with applicable federal tax laws or other legal requirements.

(f) The board of retirement, or the board of retirement acting jointly with a board of investments in a county in which a board of investments has been established pursuant to Section 31520.2, and a participating employer in the Post-Employment Benefits Trust Account shall establish, by written agreement, the respective roles and responsibilities of the retirement system and the participating employer with respect to the administration and investment of the Post-Employment Benefits Trust Account, consistent with Section 17 of Article XVI of the California Constitution. That agreement shall include, but is not limited to, funding, distribution, expenditure, actuarial, accounting, and reporting considerations, and any applicable investment parameters. The board may, in its discretion, authorize an employer to transfer assets into or out of the Post-Employment Retirement Account, however, any transfer of assets shall comply with the terms of the contract between the employer and the board, satisfy requirements under applicable rules of the Governmental Accounting Standards Board, and satisfy the requirements of federal tax law. Once the investment parameters are established, the board of retirement, or a board of investments in a county in which a board of investments has been established pursuant to Section 31520.2, shall have sole control over the investment activity of the Post-Employment Benefits Trust Account as described in subdivision (b). Upon agreement and authorization of the board of retirement and the governing body of a participating employer, the retirement system may administer a post-employment health, life, welfare, or other

supplemental benefit plan sponsored by the participating employer and funded through the Post-Employment Benefits Trust Account.

(g) In accordance with procedures established in the written agreement described in subdivision (f), the participating employer may elect to terminate participation in the Post-Employment Benefits Trust and instruct the retirement system to either (1) transfer the funds held in the Post-Employment Benefits Trust Account to a successor trustee named by the employer, or (2) disburse the trust assets in accordance with subdivision (i). In addition, the board of retirement may terminate the participation of a participating employer in the Post-Employment Benefits Trust Account if either:

(1) The board of retirement finds that the participating employer is unable to satisfy the terms and conditions required by this article, the rules and procedures established by the board, or the participation agreement between the participating employer and the board of retirement.

(2) The board of retirement elects to terminate the Post-Employment Benefits Trust Account.

(h) If the board of retirement terminates the participation of an employer in the Post-Employment Benefits Trust Account, as described in paragraph (1) or (2) of subdivision (g), the funds attributable to that employer shall remain in the Post-Employment Benefits Trust Account, for the continued payment of post-employment benefits for current and future participants and the costs of administration and investment.

(i) If the board of retirement elects to terminate the Post-Employment Benefits Trust Account, the retirement system shall disburse the funds in Post-Employment Benefits Trust Account in the following order and manner:

(1) The retirement system shall retain an amount sufficient to pay for the post-employment benefits for participants in the post-employment benefits plan or plans provided by the former participating employer.

(2) The retirement system shall retain an amount sufficient to pay reasonable administrative and investment costs described in this section.

(3) After the amounts in paragraphs (1) and (2) have been retained or disbursed, the retirement system shall pay any remaining funds to the former participating employer or employers.

SEC. 6. Section 31694.2 of the Government Code is amended to read:

31694.2. An employer who elects to participate in the Post-Employment Benefits Trust Account shall be required to establish, fund, and apply distributions from the Post-Employment Benefits Trust Account, and administer a post-employment health, life, welfare, or other supplemental benefit plan or plans funded through the

Post-Employment Benefits Trust Account, pursuant to applicable federal tax requirements or other legal provisions. An employer may expressly delegate its responsibilities under this section to the retirement system as described in subdivision (f) of Section 31694.1, to the extent allowed by federal tax laws.

CHAPTER 328

An act to amend Sections 5521.5, 7370, 8254, 8371, 8436, 12006, and 12157 of the Fish and Game Code, relating to fish.

[Approved by Governor October 8, 2007. Filed with Secretary of State October 8, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 5521.5 of the Fish and Game Code is amended to read:

5521.5. (a) In addition to the moratorium imposed by Section 5521, and notwithstanding any other provision of law, it is unlawful to take abalone for commercial purposes in District 6, 7, 16, 17, or 19A, in District 10 north of Point Lobos, or in District 20 between Southeast Rock and the extreme westerly end of Santa Catalina Island.

(b) For a person who is required to obtain a license pursuant to Section 7145, the possession of more than 12 individual abalone or abalone in excess of the annual bag limit is prima facie evidence that the person possesses the abalone for commercial purposes.

SEC. 2. Section 7370 of the Fish and Game Code is amended to read:

7370. (a) It is unlawful to take or possess for commercial purposes, buy or sell, or to offer to buy or sell, any whole sturgeon, or any part thereof, including, but not limited to, eggs, except as follows:

(1) A sturgeon, or parts thereof, that is taken or possessed by, and is the cultured progeny of, an aquaculturist who is registered under Section 15101, may be sold or purchased subject to regulations of the commission.

(2) A sturgeon, or parts thereof, that is taken commercially in another state that permits the sale of the fish and lawfully imported under Section 2363, may be possessed, sold, or purchased.

(3) Sturgeon, or parts thereof, taken pursuant to a sport fishing license in accordance with Section 7230.

(b) For purposes of this section, it is prima facie evidence that a sturgeon, or parts thereof, is possessed for commercial purposes if the possession of sturgeon is more than two times the sport bag limit.

SEC. 3. Section 8254 of the Fish and Game Code is amended to read:

8254. (a) Lobsters shall not be taken for commercial purposes except under a valid lobster permit issued to that person that has not been suspended or revoked, subject to regulations adopted by the commission.

(b) Every person who takes, assists in taking, possesses, or transports lobsters for commercial purposes while on any boat, barge, or vessel, or who uses or operates or assists in using or operating any boat, net, trap, line, or other appliance to take lobsters for commercial purposes, shall have a valid lobster permit.

(c) The permit fee for a lobster permit is two hundred sixty-five dollars ($265).

(d) The fee for a lobster crewmember permit is one hundred twenty-five dollars ($125).

(e) For the purposes of this section, it is prima facie evidence that lobster is taken for commercial purposes if the possession of lobster is more than three times the sport bag limit.

SEC. 4. Section 8371 of the Fish and Game Code is amended to read:

8371. Striped bass or salmon, or parts thereof, may be sold or offered for sale only under the following conditions:

(a) If the striped bass, or parts thereof, is taken or possessed by, and is the cultured progeny of, an aquaculturist who is registered under Section 15101, that striped bass may be sold or purchased subject to regulations of the commission.

(b) If the striped bass, or parts thereof, is taken legally in another state that permits the sale of that fish and if the fish is lawfully imported under Section 2363, the striped bass, or parts thereof, may be possessed, sold, or purchased.

(c) If the salmon, or parts thereof, is taken legally in another state that permits the sale of salmon, and is lawfully imported consistent with Section 2361, the salmon, or parts thereof, may be possessed, sold, or purchased.

(d) If the salmon, or parts thereof, is taken in accordance with Article 4 (commencing with Section 8210.2), the salmon, or parts thereof, may be possessed, sold, or purchased.

SEC. 5. Section 8436 of the Fish and Game Code is amended to read:

8436. Except as provided in Section 8436.5, fish of the family Centrarchidae (Sacramento perch, crappie, black bass, and sunfish) shall not be taken or possessed for commercial purposes, sold, or purchased, other than fish that are cultured pursuant to Division 12 (commencing with Section 15000).

SEC. 6. Section 12006 of the Fish and Game Code is amended to read:

12006. (a) Notwithstanding Section 12002:

(1) The punishment for a violation of Section 7370 is a fine of not less than five thousand dollars ($5,000), or more than ten thousand dollars ($10,000), imprisonment in a county jail not to exceed one year, or both the fine and imprisonment.

(2) The punishment for a violation of Section 8254 is a fine of not less than five thousand dollars ($5,000), or more than ten thousand dollars ($10,000), imprisonment in a county jail not to exceed six months, or both the fine and imprisonment.

(b) The court shall permanently revoke any commercial fishing license or commercial fishing permit, and may permanently revoke any sport fishing license issued to the violator by the department. Any vessel, diving or other fishing gear or apparatus, or vehicle used in the commission of an offense subject to this section may be seized and may be ordered forfeited by the court pursuant to subdivision (c) of Section 12157. Fifty percent of the revenue deposited in the Fish and Game Preservation Fund from fines and forfeitures collected pursuant to this section shall be allocated for the support of the Special Operations Unit of the department, and used for law enforcement purposes.

SEC. 7. Section 12157 of the Fish and Game Code is amended to read:

12157. (a) Except as provided in subdivision (b), the judge before whom any person is tried for a violation of any provision of this code, or regulation adopted pursuant thereto, may, upon the conviction of the person tried, order the forfeiture of any device or apparatus that is designed to be, or is capable of being, used to take birds, mammals, fish, reptiles, or amphibia and that was used in committing the offense charged.

(b) The judge shall, if the offense is punishable under Section 12008 of this code or under subdivision (c) of Section 597 of the Penal Code, order the forfeiture of any device or apparatus that is used in committing the offense, including, but not limited to, any vehicle that is used or intended for use in delivering, importing, or exporting any unlawfully taken, imported, or purchased species.

(c) (1) The judge may, for conviction of a violation of either of the following offenses, order forfeiture of any device or apparatus that is used in committing the offense, including, but not limited to, any vehicle used or intended for use in committing the offense:

(A) Section 2000 relating to deer, elk, antelope, feral pigs, European wild boars, black bears, and brown or cinnamon bears.

(B) Any offense that involves the sale, purchase, or possession of abalone for commercial purposes.

(C) Any offense that involves the sale, purchase, or possession of sturgeon or lobster, pursuant to Section 7370 or 8254.

(2) In considering an order of forfeiture under this subdivision, the court shall take into consideration the nature, circumstances, extent, and gravity of the prohibited act committed, the degree of culpability of the violator, the property proposed for forfeiture, and other criminal or civil penalties imposed on the violator under other provisions of law for that offense. The court shall impose lesser forfeiture penalties under this subdivision for those acts that have little significant effect upon natural resources or the property of another and greater forfeiture penalties for those acts that may cause serious injury to natural resources or the property of another, as determined by the court. In determining whether or not to order forfeiture of a vehicle, the court shall, in addition to any other relevant factor, consider whether the defendant is the owner of the vehicle and whether the owner of the vehicle had knowledge of the violation.

(3) It is the intent of the Legislature that forfeiture not be ordered pursuant to this subdivision for minor or inadvertent violations, as determined by the court.

(d) A judge shall not order the forfeiture of a vehicle under this section if there is a community property interest in the vehicle that is owned by a person other than the defendant and the vehicle is the only vehicle available to the defendant's immediate family that may be operated on the highway with a class A, class B, or class C driver's license.

(e) Any device or apparatus ordered forfeited shall be sold, used, or destroyed by the department.

(f) (1) The proceeds from all sales under this section, after payment of any valid liens on the forfeited property, shall be paid into the Fish and Game Preservation Fund.

(2) A lien in which the lienholder is a conspirator is not a valid lien for purposes of this subdivision.

(g) The provisions in this section authorizing or requiring a judge to order the forfeiture of a device or apparatus also apply to the judge, referee, or juvenile hearing officer in a juvenile court action brought under Section 258 of the Welfare and Institutions Code.

(h) For purposes of this section, a plea of nolo contendere or no contest, or forfeiture of bail, constitutes a conviction.

(i) Neither the disposition of the criminal action other than by conviction nor the discretionary refusal of the judge to order forfeiture upon conviction impairs the right of the department to commence

proceedings to order the forfeiture of fish nets or traps pursuant to Section 8630.

SEC. 8. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CHAPTER 329

An act to amend Sections 17518.5, 17521, 17551, 17553, 17558, 17561, 17564, 17581, 17581.5, and 17612 of, to add Sections 17521.5, 17557.1, and 17557.2 to, to add Article 1.5 (commencing with Section 17572) to Chapter 4 of Part 7 of Division 4 of Title 2 of, and to repeal Section 17572 of, the Government Code, relating to state mandates.

[Approved by Governor October 8, 2007. Filed with Secretary of State October 8, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 17518.5 of the Government Code is amended to read:

17518.5. (a) "Reasonable reimbursement methodology" means a formula for reimbursing local agencies and school districts for costs mandated by the state, as defined in Section 17514.

(b) A reasonable reimbursement methodology shall be based on cost information from a representative sample of eligible claimants, information provided by associations of local agencies and school districts, or other projections of local costs.

(c) A reasonable reimbursement methodology shall consider the variation in costs among local agencies and school districts to implement the mandate in a cost-efficient manner.

(d) Whenever possible, a reasonable reimbursement methodology shall be based on general allocation formulas, uniform cost allowances, and other approximations of local costs mandated by the state, rather than detailed documentation of actual local costs. In cases when local agencies and school districts are projected to incur costs to implement a mandate over a period of more than one fiscal year, the determination

of a reasonable reimbursement methodology may consider local costs and state reimbursements over a period of greater than one fiscal year, but not exceeding 10 years.

(e) A reasonable reimbursement methodology may be developed by any of the following:

(1) The Department of Finance.

(2) The Controller.

(3) An affected state agency.

(4) A claimant.

(5) An interested party.

SEC. 1.5. Section 17521 of the Government Code is amended to read:

17521. "Test claim" means the first claim filed with the commission alleging that a particular statute or executive order imposes costs mandated by the state, and includes a claim filed pursuant to Section 17574.

SEC. 2. Section 17521.5 is added to the Government Code, to read:

17521.5. "Legislatively determined mandate" means the provisions of a statute or executive order that the Legislature, pursuant to Article 1.5, has declared by statute to be a mandate for which reimbursement is required by Section 6 of Article XIII B of the California Constitution.

SEC. 3. Section 17551 of the Government Code is amended to read:

17551. (a) The commission, pursuant to the provisions of this chapter, shall hear and decide upon a claim by a local agency or school district that the local agency or school district is entitled to be reimbursed by the state for costs mandated by the state as required by Section 6 of Article XIII B of the California Constitution.

(b) Except as provided in Sections 17573 and 17574, commission review of claims may be had pursuant to subdivision (a) only if the test claim is filed within the time limits specified in this section.

(c) Local agency and school district test claims shall be filed not later than 12 months following the effective date of a statute or executive order, or within 12 months of incurring increased costs as a result of a statute or executive order, whichever is later.

(d) The commission, pursuant to the provisions of this chapter, shall hear and decide upon a claim by a local agency or school district filed on or after January 1, 1985, that the Controller has incorrectly reduced payments to the local agency or school district pursuant to paragraph (2) of subdivision (d) of Section 17561.

SEC. 4. Section 17553 of the Government Code is amended to read:

17553. (a) The commission shall adopt procedures for receiving claims filed pursuant to this article and Section 17574 and for providing a hearing on those claims. The procedures shall do all of the following:

(1) Provide for presentation of evidence by the claimant, the Department of Finance, and any other affected department or agency, and any other interested person.

(2) Ensure that a statewide cost estimate is adopted within 12 months after receipt of a test claim, when a determination is made by the commission that a mandate exists. This deadline may be extended for up to six months upon the request of either the claimant or the commission.

(3) Permit the hearing of a claim to be postponed at the request of the claimant, without prejudice, until the next scheduled hearing.

(b) All test claims shall be filed on a form prescribed by the commission and shall contain at least the following elements and documents:

(1) A written narrative that identifies the specific sections of statutes or executive orders and the effective date and register number of regulations alleged to contain a mandate and shall include all of the following:

(A) A detailed description of the new activities and costs that arise from the mandate.

(B) A detailed description of existing activities and costs that are modified by the mandate.

(C) The actual increased costs incurred by the claimant during the fiscal year for which the claim was filed to implement the alleged mandate.

(D) The actual or estimated annual costs that will be incurred by the claimant to implement the alleged mandate during the fiscal year immediately following the fiscal year for which the claim was filed.

(E) A statewide cost estimate of increased costs that all local agencies or school districts will incur to implement the alleged mandate during the fiscal year immediately following the fiscal year for which the claim was filed.

(F) Identification of all of the following:

(i) Dedicated state funds appropriated for this program.

(ii) Dedicated federal funds appropriated for this program.

(iii) Other nonlocal agency funds dedicated for this program.

(iv) The local agency's general purpose funds for this program.

(v) Fee authority to offset the costs of this program.

(G) Identification of prior mandate determinations made by the Commission on State Mandates or a predecessor agency that may be related to the alleged mandate.

(H) Identification of a legislatively determined mandate pursuant to Section 17573 that is on the same statute or executive order.

(2) The written narrative shall be supported with declarations under penalty of perjury, based on the declarant's personal knowledge, information, or belief, and signed by persons who are authorized and competent to do so, as follows:

(A) Declarations of actual or estimated increased costs that will be incurred by the claimant to implement the alleged mandate.

(B) Declarations identifying all local, state, or federal funds, or fee authority that may be used to offset the increased costs that will be incurred by the claimant to implement the alleged mandate, including direct and indirect costs.

(C) Declarations describing new activities performed to implement specified provisions of the new statute or executive order alleged to impose a reimbursable state-mandated program. Specific references shall be made to chapters, articles, sections, or page numbers alleged to impose a reimbursable state-mandated program.

(D) If applicable, declarations describing the period of reimbursement and payments received for full reimbursement of costs for a legislatively determined mandate pursuant to Section 17573, and the authority to file a test claim pursuant to paragraph (1) of subdivision (c) of Section 17574.

(3) (A) The written narrative shall be supported with copies of all of the following:

(i) The test claim statute that includes the bill number or executive order, alleged to impose or impact a mandate.

(ii) Relevant portions of state constitutional provisions, federal statutes, and executive orders that may impact the alleged mandate.

(iii) Administrative decisions and court decisions cited in the narrative.

(B) State mandate determinations made by the Commission on State Mandates or a predecessor agency and published court decisions on state mandate determinations made by the Commission on State Mandates are exempt from this requirement.

(4) A test claim shall be signed at the end of the document, under penalty of perjury by the claimant or its authorized representative, with the declaration that the test claim is true and complete to the best of the declarant's personal knowledge, information, or belief. The date of signing, the declarant's title, address, telephone number, facsimile machine telephone number, and electronic mail address shall be included.

(c) If a completed test claim is not received by the commission within 30 calendar days from the date that an incomplete test claim was returned by the commission, the original test claim filing date may be disallowed, and a new test claim may be accepted on the same statute or executive order.

(d) In addition, the commission shall determine whether an incorrect reduction claim is complete within 10 days after the date that the incorrect

reduction claim is filed. If the commission determines that an incorrect reduction claim is not complete, the commission shall notify the local agency and school district that filed the claim stating the reasons that the claim is not complete. The local agency or school district shall have 30 days to complete the claim. The commission shall serve a copy of the complete incorrect reduction claim on the Controller. The Controller shall have no more than 90 days after the date the claim is delivered or mailed to file any rebuttal to an incorrect reduction claim. The failure of the Controller to file a rebuttal to an incorrect reduction claim shall not serve to delay the consideration of the claim by the commission.

SEC. 5. Section 17557.1 is added to the Government Code, to read:

17557.1. (a) Notwithstanding any other provision of this part, within 30 days of the commission's adoption of a statement of decision on a test claim, the test claimant and the Department of Finance may notify the executive director of the commission in writing of their intent to follow the process described in this section to develop a reasonable reimbursement methodology and statewide estimate of costs for the initial claiming period and budget year for reimbursement of costs mandated by the state in accordance with the statement of decision. The letter of intent shall include the date on which the test claimant and the Department of Finance will submit a plan to ensure that costs from a representative sample of eligible local agency or school district claimants are considered in the development of a reasonable reimbursement methodology.

(b) This plan shall also include all of the following information:

(1) The date on which the test claimant and Department of Finance will provide to the executive director an informational update regarding their progress in developing the reasonable reimbursement methodology.

(2) The date on which the test claimant and Department of Finance will submit to the executive director the draft reasonable reimbursement methodology and proposed statewide estimate of costs for the initial claiming period and budget year. This date shall be no later than 180 days after the date the letter of intent is sent by the test claimant and Department of Finance to the executive director.

(c) At the request of the test claimant and Department of Finance, the executive director may provide for up to four extensions of this 180-day period.

(d) The test claimant or Department of Finance may notify the executive director at any time that the claimant or Department of Finance no longer intends to develop a reasonable reimbursement methodology pursuant to this section. In this case, paragraph (2) of subdivision (a) of Section 17553 and Section 17557 shall apply to the test claim. Upon receipt of this notification, the executive director shall notify the test

claimant of the duty to submit proposed parameters and guidelines within 30 days under subdivision (a) of Section 17557.

SEC. 6. Section 17557.2 is added to the Government Code, to read:

17557.2. (a) A reasonable reimbursement methodology developed pursuant to Section 17557.1 or a joint request for early termination of a reasonable reimbursement methodology shall have broad support from a wide range of local agencies or school districts. The test claimant and Department of Finance may demonstrate broad support from a wide range of local agencies or school districts in different ways, including, but not limited to, obtaining endorsement by one or more statewide associations of local agencies or school districts and securing letters of approval from local agencies or school districts.

(b) No later than 60 days before a commission hearing, the test claimant and Department of Finance shall submit to the commission a joint proposal that shall include all of the following:

(1) The draft reasonable reimbursement methodology.

(2) The proposed statewide estimate of costs for the initial claiming period and budget year.

(3) A description of the steps the test claimant and the Department of Finance undertook to determine the level of support by local agencies or school districts for the draft reasonable reimbursement methodology.

(4) An agreement that the reasonable reimbursement methodology developed and approved under this section shall be in effect for a period of five years unless a different term is approved by the commission, or upon submission to the commission of a letter indicating the Department of Finance and test claimant's joint interest in early termination of the reasonable reimbursement methodology.

(5) An agreement that, at the conclusion of the period established in paragraph (4), the Department of Finance and the test claimant will consider jointly whether amendments to the methodology are necessary.

(c) The commission shall approve the draft reasonable reimbursement methodology if review of the information submitted pursuant to Section 17557.1 and subdivision (b) of this section demonstrates that the draft reasonable reimbursement methodology and statewide estimate of costs for the initial claiming period and budget year have been developed in accordance with Section 17557.1 and meet the requirements of subdivision (a). The commission thereafter shall adopt the proposed statewide estimate of costs for the initial claiming period and budget year. Statewide cost estimates adopted under this section shall be included in the report to the Legislature required under Section 17600 and shall be reported by the commission to the appropriate Senate and Assembly policy and fiscal committees, the Legislative Analyst, and the Department of Finance not later than 30 days after adoption.

(d) Unless amendments are proposed pursuant to this subdivision, the reasonable reimbursement methodology approved by the commission pursuant to this section shall expire after either five years, any other term approved by the commission, or upon submission to the commission of a letter indicating the Department of Finance's and test claimant's joint interest in early termination of the reasonable reimbursement methodology.

(e) The commission shall approve a joint request for early termination of a reasonable reimbursement methodology if the request meets the requirements of subdivision (a). If the commission approves a joint request for early termination, the commission shall notify the test claimant of the duty to submit proposed parameters and guidelines to the commission pursuant to subdivision (a) of Section 17557.

(f) At least one year before the expiration of a reasonable reimbursement methodology, the commission shall notify the Department of Finance and the test claimant that they may do one of the following:

(1) Jointly propose amendments to the reasonable reimbursement methodology by submitting the information described in paragraphs (1), (3), and (4) of subdivision (b), and providing an estimate of the mandate's annual cost for the subsequent budget year.

(2) Jointly propose that the reasonable reimbursement methodology remain in effect.

(3) Allow the reasonable reimbursement methodology to expire and notify the commission that the test claimant will submit proposed parameters and guidelines to the commission pursuant to subdivision (a) of Section 17557 to replace the reasonable reimbursement methodology.

(g) The commission shall either approve the continuation of the reasonable reimbursement methodology or approve the jointly proposed amendments to the reasonable reimbursement methodology if the information submitted in accordance with paragraph (1) of subdivision (d) demonstrates that the proposed amendments were developed in accordance with Section 17557.1 and meet the requirements of subdivision (a) of this section.

SEC. 7. Section 17558 of the Government Code is amended to read:

17558. (a) The commission shall submit the adopted parameters and guidelines or a reasonable reimbursement methodology approved pursuant to Section 17557.2 to the Controller. As used in this chapter, a "reasonable reimbursement methodology" approved pursuant to Section 17557.2 includes all amendments to the reasonable reimbursement methodology. When the Legislature declares a legislatively determined mandate in accordance with Section 17573 in which claiming instructions are necessary, the Department of Finance shall notify the Controller.

(b) Not later than 60 days after receiving the adopted parameters and guidelines, a reasonable reimbursement methodology from the commission, or notification from the Department of Finance, the Controller shall issue claiming instructions for each mandate that requires state reimbursement, to assist local agencies and school districts in claiming costs to be reimbursed. In preparing claiming instructions, the Controller shall request assistance from the Department of Finance and may request the assistance of other state agencies. The claiming instructions shall be derived from the test claim decision and the adopted parameters and guidelines, reasonable reimbursement methodology, or statute declaring a legislatively determined mandate.

(c) The Controller shall, within 60 days after receiving amended parameters and guidelines, an amended reasonable reimbursement methodology from the commission or other information necessitating a revision of the claiming instructions, prepare and issue revised claiming instructions for mandates that require state reimbursement that have been established by commission action pursuant to Section 17557, Section 17557.2, or after any decision or order of the commission pursuant to Section 17559, or after any action by the Legislature pursuant to Section 17573. In preparing revised claiming instructions, the Controller may request the assistance of other state agencies.

SEC. 8. Section 17561 of the Government Code, as amended by Chapter 179 of the Statutes of 2007, is amended to read:

17561. (a) The state shall reimburse each local agency and school district for all "costs mandated by the state," as defined in Section 17514 and for legislatively determined mandates in accordance with Section 17573.

(b) (1) For the initial fiscal year during which these costs are incurred, reimbursement funds shall be provided as follows:

(A) Any statute mandating these costs shall provide an appropriation therefor.

(B) Any executive order mandating these costs shall be accompanied by a bill appropriating the funds therefor, or alternatively, an appropriation for these costs shall be included in the Budget Bill for the next succeeding fiscal year. The executive order shall cite that item of appropriation in the Budget Bill or that appropriation in any other bill that is intended to serve as the source from which the Controller may pay the claims of local agencies and school districts.

(2) In subsequent fiscal years appropriations for these costs shall be included in the annual Governor's Budget and in the accompanying Budget Bill. In addition, appropriations to reimburse local agencies and school districts for continuing costs resulting from chaptered bills or executive orders for which claims have been awarded pursuant to

subdivision (a) of Section 17551 shall be included in the annual Governor's Budget and in the accompanying Budget Bill.

(c) The amount appropriated to reimburse local agencies and school districts for costs mandated by the state shall be appropriated to the Controller for disbursement.

(d) The Controller shall pay any eligible claim pursuant to this section by August 15 or 45 days after the date the appropriation for the claim is effective, whichever is later. The Controller shall disburse reimbursement funds to local agencies or school districts if the costs of these mandates are not payable to state agencies, or to state agencies that would otherwise collect the costs of these mandates from local agencies or school districts in the form of fees, premiums, or payments. When disbursing reimbursement funds to local agencies or school districts, the Controller shall disburse them as follows:

(1) For initial reimbursement claims, the Controller shall issue claiming instructions to the relevant local agencies and school districts pursuant to Section 17558. Issuance of the claiming instructions shall constitute a notice of the right of the local agencies and school districts to file reimbursement claims, based upon parameters and guidelines adopted by the commission, the reasonable reimbursement methodology approved by the commission pursuant to Section 17557.2, or statutory declaration of a legislatively determined mandate and reimbursement methodology pursuant to Section 17573.

(A) When claiming instructions are issued by the Controller pursuant to Section 17558 for each mandate determined pursuant to Section 17551 or 17573 that requires state reimbursement, each local agency or school district to which the mandate is applicable shall submit claims for initial fiscal year costs to the Controller within 120 days of the issuance date for the claiming instructions.

(B) When the commission is requested to review the claiming instructions pursuant to Section 17571, each local agency or school district to which the mandate is applicable shall submit a claim for reimbursement within 120 days after the commission reviews the claiming instructions for reimbursement issued by the Controller.

(C) If the local agency or school district does not submit a claim for reimbursement within the 120-day period, or submits a claim pursuant to revised claiming instructions, it may submit its claim for reimbursement as specified in Section 17560. The Controller shall pay these claims from the funds appropriated therefor, provided that the Controller (i) may audit the records of any local agency or school district to verify the actual amount of the mandated costs, the application of a reasonable reimbursement methodology, or application of a legislatively enacted reimbursement methodology under Section 17573, and (ii) may

reduce any claim that the Controller determines is excessive or unreasonable.

(2) In subsequent fiscal years each local agency or school district shall submit its claims as specified in Section 17560. The Controller shall pay these claims from funds appropriated therefor, provided that the Controller (A) may audit (i) the records of any local agency or school district to verify the actual amount of the mandated costs, (ii) the application of a reasonable reimbursement methodology, or (iii) application of a legislatively enacted reimbursement methodology under Section 17573, (B) may reduce any claim that the Controller determines is excessive or unreasonable, and (C) shall adjust the payment to correct for any underpayments or overpayments that occurred in previous fiscal years.

(3) When paying a timely filed claim for initial reimbursement, the Controller shall withhold 20 percent of the amount of the claim until the claim is audited to verify the actual amount of the mandated costs. All initial reimbursement claims for all fiscal years required to be filed on their initial filing date for a state-mandated local program shall be considered as one claim for the purpose of computing any late claim penalty. Any claim for initial reimbursement filed after the filing deadline shall be reduced by 10 percent of the amount that would have been allowed had the claim been timely filed. The Controller may withhold payment of any late claim for initial reimbursement until the next deadline for funded claims unless sufficient funds are available to pay the claim after all timely filed claims have been paid. In no case may a reimbursement claim be paid if submitted more than one year after the filing deadline specified in the Controller's claiming instructions on funded mandates.

(e) (1) Except as specified in paragraph (2), for the purposes of determining the state's payment obligation under paragraph (1) of subdivision (b) of Section 6 of Article XIII B of the Constitution, a mandate that is "determined in a preceding fiscal year to be payable by the state" means any mandate for which the commission adopted a statewide cost estimate pursuant to this part during a previous fiscal year or that were identified as mandates by a predecessor agency to the commission, or that the Legislature declared by statute to be a legislatively determined mandate, unless the mandate has been repealed or otherwise eliminated.

(2) If the commission adopts a statewide cost estimate for a mandate during the months of April, May, or June, the state's payment obligation under subdivision (b) of Section 6 of Article XIII B shall commence one year after the time specified in paragraph (1).

SEC. 9. Section 17564 of the Government Code is amended to read:

17564. (a) No claim shall be made pursuant to Sections 17551, 17561, or 17573, nor shall any payment be made on claims submitted pursuant to Sections 17551 or 17561, or pursuant to a legislative determination under Section 17573, unless these claims exceed one thousand dollars ($1,000). However, a county superintendent of schools or county may submit a combined claim on behalf of school districts, direct service districts, or special districts within their county if the combined claim exceeds one thousand dollars ($1,000) even if the individual school district's, direct service district's, or special district's claims do not each exceed one thousand dollars ($1,000). The county superintendent of schools or the county shall determine if the submission of the combined claim is economically feasible and shall be responsible for disbursing the funds to each school, direct service, or special district. These combined claims may be filed only when the county superintendent of schools or the county is the fiscal agent for the districts. All subsequent claims based upon the same mandate shall only be filed in the combined form unless a school district, direct service district, or special district provides to the county superintendent of schools or county and to the Controller, at least 180 days prior to the deadline for filing the claim, a written notice of its intent to file a separate claim.

(b) Claims for direct and indirect costs filed pursuant to Section 17561 shall be filed in the manner prescribed in the parameters and guidelines or reasonable reimbursement methodology and claiming instructions.

(c) Claims for direct and indirect costs filed pursuant to a legislatively determined mandate pursuant to Section 17573 shall be filed and paid in the manner prescribed in the Budget Act or other bill, or claiming instructions, if applicable.

SEC. 10. Section 17572 of the Government Code is repealed.

SEC. 11. Article 1.5 (commencing with Section 17572) is added to Chapter 4 of Part 7 of Division 4 of Title 2 of the Government Code, to read:

Article 1.5. Legislatively Determined Mandate Procedure

17572. The Legislature finds and declares all of the following:

(a) Early settlement of mandate claims will allow the commission to focus its efforts on rendering sound quasi-judicial decisions regarding complicated disputes over the existence of state-mandated local programs.

(b) Early settlement of mandate claims will provide timely information to the Legislature regarding local costs of state requirements and timely reimbursement to local agencies or school districts.

(c) It is the intent of the Legislature to provide for an orderly process for settling mandate claims in which the parties are in substantial

agreement. Nothing in this article diminishes the right of a local agency or school district that chooses not to accept reimbursement pursuant to this article from filing a test claim with the commission or taking other steps to obtain reimbursement pursuant to Section 6 of Article XIII B of the California Constitution.

17573. (a) Notwithstanding Section 17551, the Department of Finance and a local agency, school district, or statewide association may jointly request of the chairpersons of the committees in each house of the Legislature that consider appropriations, and the chairpersons of the committees and appropriate subcommittees in each house of the Legislature that consider the State Budget, that the Legislature (1) determine that a statute or executive order, or portion thereof, mandates a new program or higher level of service requiring reimbursement of local governments pursuant to Section 6 of Article XIII B of the California Constitution, (2) establish a reimbursement methodology, and (3) appropriate funds for reimbursement of costs. For purposes of this section, "statewide association" includes a statewide association representing local agencies or school districts, as defined in Sections 17518 and 17519.

(b) The statute of limitations specified in Section 17551 shall be tolled from the date a local agency, school district, or statewide association contacts the Department of Finance or responds to a Department of Finance request to initiate a joint request for a legislatively determined mandate pursuant to subdivision (a), to (1) the date that the Budget Act for the subsequent fiscal year is adopted if a joint request is submitted pursuant to subdivision (a), or (2) the date on which the Department of Finance, or a local agency, school district, or statewide association notifies the other party of its decision not to submit a joint request. A local agency, school district, or statewide association, or the Department of Finance shall provide written notification to the commission of each of these dates.

(c) A joint request made under subdivision (a) shall be in writing and include all of the following:

(1) Identification of those provisions of the statute or executive order, or portion thereof, that mandate a new program or higher level of service requiring reimbursement of local agencies or school districts pursuant to Section 6 of Article XIII B of the California Constitution, a proposed reimbursement methodology, and the period of reimbursement.

(2) A list of eligible claimants and a statewide estimate for the initial claiming period and annual dollar amount necessary to reimburse local agencies or school districts to comply with that statute or executive order that mandates a new program or higher level of service.

(3) Documentation of significant support among local agencies or school districts for the proposed reimbursement methodology, including, but not limited to, endorsements by statewide associations and letters of approval from local agencies or school districts.

(d) A joint request authorized by this section may be submitted to the Legislature pursuant to subdivision (a) at any time after enactment of a statute or issuance of an executive order, regardless of whether a test claim on the same statute or executive order is pending with the commission. If a test claim is pending before the commission, the period of reimbursement established by that filing shall apply to a joint request filed pursuant to this section.

(e) (1) If the Legislature accepts the joint request and determines that those provisions of the statute or executive order, or portion thereof, mandate a new program or higher level of service requiring reimbursement of local agencies or school districts pursuant to Section 6 of Article XIII B of the California Constitution, it shall adopt a statute declaring that the statute or executive order, or portion thereof, is a legislatively determined mandate and specify the term and period of reimbursement and methodology for reimbursing eligible local agencies or school districts. If no term is specified in the statute, then the term shall be five years, beginning July 1 of the year in which the statute is enacted.

(2) For the purpose of this subdivision, "term" means the number of years specified in the statute adopted pursuant to this subdivision for reimbursing eligible local agencies or school districts for a legislatively determined mandate.

(f) When the Legislature adopts a statute pursuant to paragraph (1) of subdivision (e) on a mandate subject to subdivision (b) of Section 6 of Article XIII B of the California Constitution, the Legislature shall do either of the following:

(1) Appropriate in the Budget Act the full payable amount for reimbursement to local agencies that has not been previously paid.

(2) Suspend the operation of the mandate pursuant to Section 17581 or repeal the mandate.

(g) The Department of Finance, or a local agency, school district, or statewide association shall notify the commission of actions taken pursuant to this section, as specified below:

(1) Provide the commission with a copy of any communications regarding development of a joint request under this section and a copy of a joint request when it is submitted to the Legislature.

(2) Notify the commission of the date of (A) the Legislature's action on a joint request in the Budget Act, or (B) the Department of Finance's

decision not to submit a joint request on a specific statute or executive order.

(h) Upon receipt of notice that a joint request has been submitted to the Legislature on the same statute or executive order as a pending test claim, the commission may stay its proceedings on the pending test claim upon the request of any party.

(i) Upon enactment of a statute declaring a legislatively determined mandate, enactment of a reimbursement methodology, and appropriation for reimbursement of the full payable amount that has not been previously paid in the Budget Act, all of the following shall apply:

(1) The Controller shall prepare claiming instructions pursuant to Section 17558, if applicable.

(2) The commission shall not adopt a statement of decision, parameters and guidelines, or statewide cost estimate on the same statute or executive order unless a local agency or school district that has rejected the amount of reimbursement files a test claim or takes over a withdrawn test claim on the same statute or executive order.

(3) A local agency or school district accepting payment for the statute or executive order, or portion thereof, that mandates a new program or higher level of service pursuant to Section 6 of Article XIII B of the California Constitution shall not be required to submit parameters and guidelines if it is the successful test claimant pursuant to Section 17557.

17574. (a) A local agency or school district agrees to the following terms and conditions when it accepts reimbursement for a legislatively determined mandate pursuant to Section17573:

(1) Any unpaid reimbursement claims the local agency or school district has previously filed with the Controller pursuant to Section 17561 and derived from parameters and guidelines or reasonable reimbursement methodology shall be deemed withdrawn if they are on the same statute or executive order of a legislatively determined mandate and for the same period of reimbursement.

(2) The payment of the amount agreed upon pursuant to Section 17573 constitutes full reimbursement of its costs for that mandate for the applicable period of reimbursement.

(3) The methodology upon which the payment is calculated is an appropriate reimbursement methodology for the term specified in subdivision (e) of Section 17573.

(4) A test claim filed with the commission by a local agency or school district on the same statute or executive order as a legislatively determined mandate shall be withdrawn.

(5) A test claim on the same statute or executive order as a legislatively determined mandate will not be filed with the commission except as provided in subdivision (c).

(b) If a local agency or school district rejects reimbursement for a legislatively determined mandate pursuant to Section 17573, a local agency or school district may take over a withdrawn test claim within six months after the date the test claim is withdrawn, by substitution of parties and compliance with the filing requirements in subdivision (b) of Section 17553, as specified in the commission's notice of withdrawal.

(c) (1) Notwithstanding Section 17551 and subdivision (b) of Section 17573, a local agency or school district may file a test claim on the same statute or executive order as a legislatively determined mandate if one of the following applies:

(A) The Legislature amends the reimbursement methodology and the local agency or school district rejects reimbursement.

(B) The term of the legislatively determined mandate, as defined in subdivision (e) of Section 17573, has expired.

(C) The term of the legislatively determined mandate, as defined in subdivision (e) of Section 17573, is amended and the local agency or school district rejects reimbursement under the new term.

(D) The mandate is subject to subdivision (b) of Section 6 of Article XIII B and the Legislature does both of the following:

(i) Fails to appropriate in the Budget Act funds to reimburse local agencies for the full payable amount that has not been previously paid based on the reimbursement methodology enacted by the Legislature.

(ii) Does not repeal or suspend the mandate pursuant to Section 17581.

(2) A test claim filed pursuant to the authority granted by this subdivision shall be filed within six months of the date an action described in subparagraph (A), (B), (C), or (D) of paragraph (1) occurs.

(d) Notwithstanding any other provision of this section, a local agency or school district shall not file a test claim pursuant to this section if the statute of limitations specified in subdivision (c) of Section 17551 expired before the date a legislatively determined mandate was adopted by the Legislature pursuant to Section 17573.

(e) Notwithstanding the period of reimbursement specified in subdivision (e) of Section 17557, a test claim filed pursuant to this section shall establish eligibility for reimbursement beginning with the fiscal year of an action described in subparagraph (A), (B), (C), or (D) of paragraph (1) of subdivision (c).

17574.5. The determination of a legislatively determined mandate pursuant to Section 17573 shall not be binding on the commission when making its determination pursuant to subdivision (a) of Section 17551.

SEC. 12. Section 17581 of the Government Code is amended to read:

17581. (a) No local agency shall be required to implement or give effect to any statute or executive order, or portion thereof, during any fiscal year and for the period immediately following that fiscal year for

which the Budget Act has not been enacted for the subsequent fiscal year if all of the following apply:

(1) The statute or executive order, or portion thereof, has been determined by the Legislature, the commission, or any court to mandate a new program or higher level of service requiring reimbursement of local agencies pursuant to Section 6 of Article XIII B of the California Constitution.

(2) The statute or executive order, or portion thereof, or the commission's test claim number, has been specifically identified by the Legislature in the Budget Act for the fiscal year as being one for which reimbursement is not provided for that fiscal year. For purposes of this paragraph, a mandate shall be considered to have been specifically identified by the Legislature only if it has been included within the schedule of reimbursable mandates shown in the Budget Act and it is specifically identified in the language of a provision of the item providing the appropriation for mandate reimbursements.

(b) Within 30 days after enactment of the Budget Act, the Department of Finance shall notify local agencies of any statute or executive order, or portion thereof, for which operation of the mandate is suspended because reimbursement is not provided for that fiscal year pursuant to this section and Section 6 of Article XIII B of the California Constitution.

(c) Notwithstanding any other provision of law, if a local agency elects to implement or give effect to a statute or executive order described in subdivision (a), the local agency may assess fees to persons or entities which benefit from the statute or executive order. Any fee assessed pursuant to this subdivision shall not exceed the costs reasonably borne by the local agency.

(d) This section shall not apply to any state-mandated local program for the trial courts, as specified in Section 77203.

(e) This section shall not apply to any state-mandated local program for which the reimbursement funding counts toward the minimum General Fund requirements of Section 8 of Article XVI of the Constitution.

SEC. 13. Section 17581.5 of the Government Code, as amended by Chapter 174 of the Statutes of 2007, is amended to read:

17581.5. (a) A school district shall not be required to implement or give effect to the statutes, or a portion of the statutes, identified in subdivision (c) during any fiscal year and for the period immediately following that fiscal year for which the Budget Act has not been enacted for the subsequent fiscal year if all of the following apply:

(1) The statute or a portion of the statute, has been determined by the Legislature, the commission, or any court to mandate a new program or

higher level of service requiring reimbursement of school districts pursuant to Section 6 of Article XIII B of the California Constitution.

(2) The statute, or a portion of the statute, or the test claim number utilized by the commission, specifically has been identified by the Legislature in the Budget Act for the fiscal year as being one for which reimbursement is not provided for that fiscal year. For purposes of this paragraph, a mandate shall be considered specifically to have been identified by the Legislature only if it has been included within the schedule of reimbursable mandates shown in the Budget Act and it specifically is identified in the language of a provision of the item providing the appropriation for mandate reimbursements.

(b) Within 30 days after enactment of the Budget Act, the Department of Finance shall notify school districts of any statute or executive order, or portion thereof, for which reimbursement is not provided for the fiscal year pursuant to this section.

(c) This section applies only to the following mandates:

(1) The School Bus Safety I (CSM-4433) and II (97-TC-22) mandates (Chapter 642 of the Statutes of 1992; Chapter 831 of the Statutes of 1994; and Chapter 739 of the Statutes of 1997).

(2) The School Crimes Reporting II mandate (97-TC-03; and Chapter 759 of the Statutes of 1992 and Chapter 410 of the Statutes of 1995).

(3) Investment reports (96-358-02; and Chapter 783 of the Statutes of 1995 and Chapters 156 and 749 of the Statutes of 1996).

(4) County treasury oversight committees (96-365-03; and Chapter 784 of the Statutes of 1995 and Chapter 156 of the Statutes of 1996).

(5) Grand jury proceedings mandate (98-TC-27; and Chapter 1170 of the Statutes of 1996, Chapter 443 of the Statutes of 1997, and Chapter 230 of the Statutes of 1998).

(6) Sexual Harassment Training in the Law Enforcement Workplace (97-TC-07; and Chapter 126 of the Statutes of 1993).

SEC. 14. Section 17612 of the Government Code, as amended by Chapter 179 of the Statutes of 2007, is amended to read:

17612. (a) Upon receipt of the report submitted by the commission pursuant to Section 17600, funding shall be provided in the subsequent Budget Act for costs incurred in prior years. No funding shall be provided for years in which a mandate is suspended.

(b) The Legislature may amend, modify, or supplement the parameters and guidelines, reasonable reimbursement methodology, and adopted statewide estimate of costs for the initial claiming period and budget year for mandates contained in the annual Budget Act. If the Legislature amends, modifies, or supplements the parameters and guidelines, reasonable reimbursement methodology, and adopted statewide estimate of costs for the initial claiming period and budget year, it shall make a

declaration in separate legislation specifying the basis for the amendment, modification, or supplement.

(c) If the Legislature deletes from the annual Budget Act funding for a mandate, the local agency or school district may file in the Superior Court of the County of Sacramento an action in declaratory relief to declare the mandate unenforceable and enjoin its enforcement for that fiscal year.

CHAPTER 330

An act to amend Section 65965 of the Government Code, relating to land use.

[Approved by Governor October 8, 2007. Filed with Secretary of State October 8, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 65965 of the Government Code is amended to read:

65965. (a) For the purposes of this section, the following definitions apply:

(1) "Direct protection" means the protection and preservation of natural lands or resources, including, but not limited to, agricultural lands, wildlife habitat, wetlands, endangered species habitat, open-space areas, or outdoor recreational areas.

(2) "Stewardship" encompasses the range of activities involved in controlling, monitoring, and managing for conservation purposes a property, or a conservation or open-space easement, as defined by the terms of the easement, and its attendant resources.

(b) Notwithstanding any other provision of law to the contrary, if a state or local public agency requires a property owner to transfer to the agency an interest in real property to mitigate any adverse impact upon natural resources caused by permitting the development of a project or facility, the state or local public agency may authorize a nonprofit organization to hold title to and manage that interest in real property, provided that the nonprofit organization is all of the following:

(1) Exempt from taxation as an organization described in Section 501(c)(3) of the Internal Revenue Code, and qualified to do business in the state.

(2) A "qualified organization" as defined in Section 170(h)(3) of the Internal Revenue Code.

(3) An organization that has as its principal purpose and activity the direct protection or stewardship of natural land or resources, or cultural or historic resources, including, but not limited to, agricultural lands, wildlife habitat, wetlands, endangered species habitat, open-space areas, and outdoor recreational areas.

(c) If a state or local public agency, in the development of its own project, is required to transfer an interest in real property to mitigate an adverse impact upon natural resources, the agency may transfer the interest to a nonprofit organization that meets the requirements set forth in paragraphs (1) to (3), inclusive, of subdivision (b).

(d) The recorded instrument that places title with a nonprofit organization pursuant to subdivision (b) shall include, at a minimum, a provision that if the state or local public agency that authorized the nonprofit organization to hold the title, or its successor agency, determines that the interest in real property that is held by the nonprofit organization is not being held, monitored, or managed for conservation purposes in the manner specified in that instrument or in the mitigation agreement between the state or local public agency and the nonprofit organization, the interest in real property shall revert to the state or that local public agency, or to another public agency or nonprofit organization qualified pursuant to subdivision (b), approved by the state or local public agency.

(e) A state or local public agency shall exercise due diligence in reviewing the qualifications of a nonprofit organization to effectively manage and steward natural land or resources. The state or local public agency may adopt guidelines to assist the agency in that review process.

CHAPTER 331

An act to amend Section 31452.5 of, and to add Article 8.9 (commencing with Section 31698) to Chapter 3 of Part 3 of Division 4 of Title 3 of, the Government Code, relating to vision care.

[Approved by Governor October 8, 2007. Filed with Secretary of State October 8, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 31452.5 of the Government Code is amended to read:

31452.5. The board may comply with and give effect to a revocable written authorization signed by a retired member or beneficiary of a

retired member entitled to a retirement allowance or benefit under this chapter, authorizing the treasurer or other entity authorized by the board to deduct a specified amount from the retirement allowance or benefit payable to any retired member or beneficiary of a retired member for the purpose of paying premiums on any policy or certificate of group life insurance or group disability insurance issued by an admitted insurer, for any prepaid group medical or hospital service plan, or both, for any vision care program or dental plan, approved by the board, for the benefit of the retired member or his or her dependents, for the payment of premiums on national service life insurance or United States government converted insurance, for the purchase of shares in or the payment of money to any regularly chartered credit union, for charitable organizations or federally chartered veterans' organizations as approved by both the board of retirement and the board of supervisors, or for the purchase of United States Savings Bonds, or for the payment of personal income taxes to the government of the United States or of the State of California, and each month shall draw his or her order in favor of the insurer, institution, credit union, or government named in the written authorization for an amount equal to the deductions so authorized and made during the month. The board may charge a reasonable fee for the making of the deductions and payments.

SEC. 2. Article 8.9 (commencing with Section 31698) is added to Chapter 3 of Part 3 of Division 4 of Title 3 of the Government Code, to read:

Article 8.9. Vision Care

31698. This article shall be known and may be cited as the County Retirement System Vision Care Program.

31698.1. A member who retires from a county retirement system covered by this chapter may enroll in a vision care program offered pursuant to this article subject to meeting the eligibility requirements established for the program.

31698.2. Each retired member that elects to participate in the program shall be solely responsible for the payment of premiums.

31698.3. The benefits in this article are in addition to any other benefits provided in this chapter.

31698.4. The sponsor of the vision care program may contract with a third-party administrator to provide vision care to the retired member, his or her survivors, and his or her eligible dependents.

CHAPTER 332

An act to amend Sections 24001, 24101, 24205, and 24221 of, and to add Section 24201.5 to, the Education Code, relating to state teachers' retirement.

[Approved by Governor October 8, 2007. Filed with Secretary of State October 8, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 24001 of the Education Code is amended to read:

24001. (a) A member may apply for a disability allowance under the Defined Benefit Program if the member has five or more years of credited service and if all of the following requirements are met:

(1) At least four years were credited for actual performance of service subject to coverage under the Defined Benefit Program. Credit received because of workers' compensation payments shall be counted toward the four-year requirement in accordance with Section 22710.

(2) The last five years of credited service were performed in this state.

(3) Except as described in subdivision (d) of Section 24201.5, at least one year was credited for service performed subsequent to the date on which the member terminated the service retirement allowance under Section 24208.

(4) At least one year was credited for service performed subsequent to the most recent refund of accumulated retirement contributions.

(5) The member has neither attained normal retirement age, nor possesses sufficient unused sick leave days to receive creditable compensation on account of sick leave to normal retirement age.

(6) The member is not applying for a disability allowance because of a physical or mental condition known to exist at the time the most recent membership in the Defined Benefit Program commenced and remains substantially unchanged at the time of application.

(b) Nothing in subdivision (a) shall affect the right of a member to a disability allowance under this part if the reason that the member is credited with less than four years of actual service performed subject to coverage under the Defined Benefit Program is due to an on-the-job injury or a disease that occurred while the member was employed and the four-year requirement can be satisfied by credit obtained under Chapter 14 (commencing with Section 22800) or Chapter 14.5 (commencing with Section 22850) in addition to any credit received from workers' compensation payments.

(c) Nothing in subdivision (a) shall affect the right of a member under this part who has less than five years of credited service to a disability allowance if the following conditions are met:

(1) The member has at least one year of credited service performed in this state.

(2) The disability is the direct result of an unlawful act of bodily injury that was perpetrated on his or her person by another human being while the member was performing his or her official duties in a position subject to coverage under the Defined Benefit Program.

(3) The member provides documentation of the unlawful act in the form of an official police report or official employer incident report.

(d) A member who is eligible to apply for a disability allowance pursuant to this section may also apply for a service retirement pending a determination of his or her application for disability as described in Section 24201.5.

SEC. 2. Section 24101 of the Education Code is amended to read:

24101. (a) A member may apply for a disability retirement under this part if the member has five or more years of credited service and if all of the following requirements are met:

(1) At least four years were credited for actual service performed subject to coverage under the Defined Benefit Program. Credit received because of workers' compensation payments shall be counted toward the four-year requirement in accordance with Section 22710.

(2) The last five years of credited service were performed in this state.

(3) Except as described in subdivision (d) of Section 24201.5, at least one year of credited service was earned subsequent to the date on which the member terminated the service retirement allowance under Section 24208.

(4) At least one year of credited service was earned subsequent to the date on which the member's disability retirement was terminated.

(5) At least one year of credited service was earned subsequent to the most recent refund of accumulated retirement contributions.

(6) The member is not applying for a disability retirement because of a physical or mental condition known to exist at the time the most recent membership in the Defined Benefit Program commenced and that remains substantially unchanged at the time of application.

(b) Nothing in subdivision (a) shall affect the right of a member to a disability retirement if the reason that the member has performed less than four years of actual service is due to an on-the-job injury or a disease while in employment subject to coverage by the Defined Benefit Program and the four-year requirement can be satisfied by credit obtained under Chapter 14 (commencing with Section 22800) or Chapter 14.5

(commencing with Section 22850) in addition to any credit received from workers' compensation payments.

(c) Nothing in subdivision (a) shall affect the right of a member under this part who has less than five years of credited service to a disability retirement allowance if the following conditions are met:

(1) The member has at least one year of credited service performed in this state.

(2) The disability is a direct result of an unlawful act of bodily injury that was perpetrated on his or her person by another human being while the member was performing his or her official duties in a position subject to coverage under the Defined Benefit Program.

(3) The member provides documentation of the unlawful act in the form of an official police report or official employer incident report.

(d) A member who is eligible to apply for a disability retirement pursuant to this section may also apply for a service retirement pending a determination of his or her application for disability as described in Section 24201.5.

SEC. 3. Section 24201.5 is added to the Education Code, to read:

24201.5. (a) A member who is eligible and applies for a disability allowance or retirement pursuant to Section 24001 or 24101 may apply to receive a service retirement allowance pending the determination of his or her application for disability, subject to all of the following:

(1) The member is eligible to retire for service under Section 24201 or 24203.

(2) The member submits an application on a form provided by the system, subject to all of the following:

(A) The application is executed no earlier than six months before the effective date of the retirement allowance and the effective date is no earlier than the first day of the month in which the application is received at the system's headquarters office, as established pursuant to Section 22375.

(B) The effective date is later than the last day of creditable service for which compensation is payable to the member.

(C) The effective date is no earlier than one year following the date on which a retirement allowance was terminated pursuant to Section 24208 or subdivision (a) of Section 24117.

(3) The effective date of the service retirement allowance can be no earlier than the date upon and continuously after which the member is determined to the satisfaction of the board to have been mentally incompetent.

(4) A member who applies for service retirement under this section is not eligible to receive a lump-sum payment and an actuarially reduced monthly allowance pursuant to Section 24221.

(5) A member who applies for service retirement under this section is not eligible to receive an allowance calculated pursuant to Section 24205.

(6) (A) Except as described in subparagraph (B), a member who applies for service retirement under this section shall not receive service credit for each day of accumulated and unused leave of absence for illness or injury or for education pursuant to Section 22717 or 22717.5.

(B) If the application for disability is denied, the member's service retirement allowance shall be adjusted to the effective date of the service retirement to include service credited pursuant to Section 22717 or 22717.5.

(7) If the application for disability is denied, a member who applies for a service retirement allowance under this section is subject to the all of the following:

(A) Unless otherwise provided in this part, a member who, on his or her application for service retirement, elects an option pursuant to Section 24300.1 or 24307 may not change or revoke that option.

(B) If the member receives a modified service retirement allowance based on the election of an option pursuant to Section 24300.1 or 24307, that modified service retirement allowance shall continue in effect and unchanged.

(C) If the member did not elect an option pursuant to Section 24300.1 or 24307 and receives an unmodified service retirement allowance, that unmodified service retirement allowance shall continue in effect and unchanged.

(b) A member who applies for service retirement under this section may change or cancel his or her service retirement application pursuant to Section 24204, or may terminate his or her service retirement allowance pursuant to Section 24208.

(c) A member may not cancel his or her application for disability prior to a determination of that application unless he or she submits a written request to the system's headquarters office, as established pursuant to Section 22375. If a member elects to cancel his or her service retirement application or elects to terminate his or her service retirement allowance as described in subdivision (b), that election shall not cancel the application for disability.

(d) (1) Paragraph (3) of subdivision (a) of Sections 24001 and 24101 shall not apply to a member who cancels an application for service retirement pursuant to Section 24204 or who terminates a service retirement allowance pursuant to Section 24208, if all of the following apply:

(A) The member earned at least one year of credited service subsequent to the most recent terminated service retirement allowance.

(B) The member's application for disability under this section is pending determination by the board.

(2) If the member's application for disability under this section is denied, paragraph (3) of subdivision (a) of Sections 24001 and 24101 shall apply if the member submits a new application for disability.

(e) If the board approves the application for disability, and notwithstanding subdivision (e) of Section 24204, the board shall cancel the member's application for service retirement and shall authorize payment of a disability allowance or disability retirement.

(f) Except as described in subdivision (g), if a member who applies for service retirement under this section dies prior to a determination by the board on the application for disability, any subsequent benefits payable to the member's surviving spouse or beneficiary shall be based on the service retirement allowance as elected by the member at the time of retirement for service.

(g) (1) Subject to paragraph (2), if a member who applies for service retirement under this section dies prior to receiving notification of the approval of his or her application for disability retirement, the disability retirement shall be payable to the member's surviving spouse or beneficiary.

(2) If the member elected an option pursuant to Section 24300.1, a modified disability retirement allowance shall be payable to the member's beneficiary or beneficiaries.

(h) If the member cancels his or her service retirement application or terminates his or her service retirement allowance as described in subdivision (b), the system shall make appropriate adjustments to the applicable service retirement allowance, disability allowance, or disability retirement allowance, retroactive to the effective date of the disability allowance or disability retirement allowance.

(i) The system may recover a service retirement allowance overpayment made to a member by deducting that overpayment from any subsequent disability benefit payable to the member.

(j) Nothing in this section shall be construed to allow a member or beneficiary to receive more than one type of retirement or disability allowance for the same period of time.

SEC. 4. Section 24205 of the Education Code is amended to read:

24205. A member retiring prior to 60 years of age, and who has attained 55 years of age, may elect to receive one-half of the service retirement allowance for normal retirement age for a limited time and then revert to the full retirement allowance for normal retirement age.

(a) The retirement allowance shall be based on service credit and final compensation as of the date of retirement for service and shall be calculated with the factor for normal retirement age.

(b) If the member elects a joint and survivor option under Section 24300 or 24300.1, the actuarial reduction shall be based on the member's and beneficiary's ages as of the effective date of the early retirement. If the member elected a preretirement option under Section 24307, the actuarial reduction shall be based on the member's and beneficiary's ages as determined by the provisions of that section.

(c) One-half of the retirement allowance as of 60 years of age shall be paid for a period of time equal to twice the elapsed time between the effective date of retirement and the date of the retired member's 60th birthday.

(d) The full retirement allowance as calculated under subdivision (a) or (b) shall begin to accrue as of the first of the month following the reduction period as specified in subdivision (c). The full retirement allowance shall not begin to accrue prior to this time under any circumstances, including, but not limited to, divorce or death of the named beneficiary.

(e) The annual improvement factor provided for in Sections 22140 and 22141 shall be based upon the retirement allowance as calculated under subdivision (a) or (b). The improvement factor shall begin to accrue on September 1 following the retired member's 60th birthday. These increases shall be accumulated and shall become payable when the full retirement allowance for normal retirement age first becomes payable.

(f) Any ad hoc benefit increase with an effective date prior to the retired member's 60th birthday shall not affect an allowance payable under this section. Only those ad hoc improvements with effective dates on or after the retired member's 60th birthday shall be accrued and accumulated and shall first become payable when the full retirement allowance for normal retirement age becomes payable.

(g) The cancellation of an option election in accordance with Section 24305 shall not cancel the election under this section. Upon cancellation of the joint and survivor option, one-half of the retired member's retirement allowance as calculated under subdivision (a) shall become payable for the balance of the reduction period specified in subdivision (c).

(h) If a retired member who has elected a joint and survivor option dies during the period when the reduced allowance is payable, the beneficiary shall receive one-half of the allowance payable to the beneficiary until the date when the retired member would have received the full retirement allowance for normal retirement age. At that time, the beneficiary's allowance shall be increased to the full amount payable to the beneficiary plus the appropriate annual improvement factor increases and ad hoc increases.

(i) This section shall not apply to a member who retires for service pursuant to Section 24201.5.

SEC. 5. Section 24221 of the Education Code is amended to read:

24221. (a) A member who retires for service prior to January 1, 2011, may elect, on a form prescribed by the system, to receive a lump-sum payment and an actuarially reduced monthly allowance pursuant to this section in lieu of the monthly unmodified allowance that would otherwise be payable to the member pursuant to this chapter. The election under this section shall be made at the time the member files his or her application for service retirement allowance as provided in Section 24204.

(b) A member who makes the election described in subdivision (a) shall receive a one-time, lump-sum payment in an amount that equals or does not exceed the lesser of the following amounts:

(1) The actuarial present value of the amount by which (A) the monthly unmodified allowance payable to the member pursuant to this chapter exceeds (B) an amount equal to 2 percent of the member's final compensation multiplied by the number of years of credited service and divided by 12.

(2) Fifteen percent of the actuarial present value of the monthly unmodified allowance payable to the member under this chapter.

(c) Notwithstanding any other provision of this part, a member who makes the election described in subdivision (a) shall receive a monthly unmodified allowance, pursuant to this chapter, that shall be actuarially reduced to reflect the lump-sum amount paid under subdivision (b). The actuarial reduced unmodified allowance may be modified pursuant to Section 24300 or 24300.1.

(d) A member may not apply a lump-sum payment made pursuant to this section for the purposes of redepositing previously refunded retirement contributions pursuant to Chapter 19 (commencing with Section 23200) or purchasing service credit pursuant to Chapter 14 (commencing with Section 22800), Chapter 14.2 (commencing with Section 22820) or Chapter 14.5 (commencing with Section 22850). The Legislature hereby finds and declares that if a member who elects to receive a partial lump-sum payment also elects to redeposit previously refunded retirement contributions or purchase service credit as a result of the receipt of the lump-sum payment, the Defined Benefit Program may experience a net actuarial impact.

(e) An election pursuant to subdivision (a) may have no net actuarial impact to the Defined Benefit Program. The board shall adopt present value factors to establish a corresponding actuarially reduced monthly allowance, that results in no net actuarial impact to the Defined Benefit Program. The Legislature reserves the right to modify the provisions of

this section to further the objective of permitting eligible members to receive a lump-sum distribution of a portion of their benefits, with a corresponding actuarial reduction in their monthly allowance, so that there is no net actuarial impact to the Defined Benefit Program.

(f) This section shall not apply to a member who retires for service pursuant to Section 24201.5.

CHAPTER 333

An act to amend Section 22212.5 of the Education Code, and to amend Section 20098 of the Government Code, relating to public employees' retirement.

[Approved by Governor October 8, 2007. Filed with Secretary of State October 8, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 22212.5 of the Education Code is amended to read:

22212.5. (a) This section shall apply to the following positions in the system: chief executive officer, system actuary, general counsel, chief investment officer, and other investment officers and portfolio managers whose positions are designated managerial pursuant to Section 18801.1 of the Government Code.

(b) Notwithstanding Sections 19816, 19825, 19826, 19829, and 19832 of the Government Code, the board shall fix the compensation for the positions specified in subdivision (a). In so doing, the board shall be guided by the principles contained in Sections 19826 and 19829 of the Government Code, consistent with its fiduciary responsibility to its members to recruit and retain highly qualified and effective employees for these positions.

(c) When a position specified in subdivision (a) is filled through a general civil service appointment, it shall be filled from an eligible list based on an examination that was held on an open basis, and tenure in those positions shall be subject to the provisions of Article 2 (commencing with Section 19590) of Chapter 7 of Part 2 of Division 5 of Title 2 of the Government Code. In addition to the causes for action specified in that article, the board may take action under the article for causes related to its fiduciary responsibility to its members, including the employee's failure to meet specified performance objectives.

(d) An individual who held a position designated in subdivision (a) for less than five years may not, for a period of two years after leaving that position, for compensation, act as agent or attorney for, or otherwise represent, any other person, except the state, by making any formal or informal appearance before or by making any oral or written communication to the board, or any officer or employee thereof, if the appearance or communication is made for the purpose of influencing administrative or legislative action or any action or proceeding involving the issuance, amendment, awarding, or revocation of a permit, license, grant, contract, or sale or purchase of goods or property.

SEC. 2. Section 20098 of the Government Code is amended to read:

20098. (a) The board shall appoint and, notwithstanding Sections 19816, 19825, 19826, 19829, and 19832 shall fix the compensation of an executive officer, a general counsel, a chief actuary, a chief investment officer, and other investment officers and portfolio managers whose positions are designated managerial pursuant to Section 18801.1.

(b) The executive officer, deputy executive officers, and the assistant executive officers may administer oaths.

(c) When fixing the compensation for the positions specified in subdivision (a), the board shall be guided by the principles contained in Sections 19826 and 19829, consistent with its fiduciary responsibility to its members to recruit and retain highly qualified and effective employees for these positions.

(d) When a position specified in subdivision (a) is filled through a general civil service appointment, it shall be filled from an eligible list based on an examination that was held on an open basis, and tenure in the position shall be subject to the provisions of Article 2 (commencing with Section 19590) of Chapter 7 of Part 2 of Division 5 of Title 2. In addition to the causes for action specified in that article, the board may take action under the article for causes related to its fiduciary responsibility to its members, including the employee's failure to meet specified performance objectives.

(e) An individual who held a position designated in subdivision (a) for less than five years may not, for a period of two years after leaving that position, for compensation, act as agent or attorney for, or otherwise represent, any other person, except the state, by making any formal or informal appearance before or any oral or written communication to the Public Employees' Retirement System, or any officer or employee thereof, if the appearance or communication is made for the purpose of influencing administrative or legislative action or any action or proceeding involving the issuance, amendment, awarding, or revocation

of a permit, license, grant, contract, or sale or purchase of goods or property.

CHAPTER 334

An act to amend Section 15150 of the Education Code, relating to school bonds.

[Approved by Governor October 8, 2007. Filed with Secretary of State October 8, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 15150 of the Education Code is amended to read:

15150. (a) When the governing board of a school district or a community college district deems it in the best interests of the district, it may by resolution, upon such terms and conditions as it shall prescribe, issue notes, on a negotiated or competitive-bid basis, maturing within a period not to exceed five years, in anticipation of the sale of bonds authorized pursuant to Section 15100 or Section 15340 at the time the notes are issued. The proceeds from the sale of the notes shall be used only for authorized purposes of the bonds or to repay outstanding notes authorized by this section.

(b) All notes issued and any renewal thereof shall be payable at a fixed time not more than five years from the date of the original issuance of the note. If the sale of the bonds does not occur prior to the maturity of the notes issued in anticipation of the sale, the fiscal officer of the school district or community college district, in order to meet the notes then maturing, shall issue renewal notes for this purpose. The renewal of a note may not be issued after the sale of bonds in anticipation of which the original note was issued and the maturity date of the renewed note shall not be later than five years from the date of the original issuance of the note.

(c) Every note and any renewal thereof shall be payable from the proceeds of the sale of bonds or of any renewal of notes or from other funds of the school district or community college district lawfully available for the purpose of repaying the notes, including state grants. The total amount of the notes or renewals thereof issued and outstanding may not at any time exceed the total amount of the unsold bonds.

(d) Interest on the notes shall be payable from proceeds of the sale of bonds, or from the tax lawfully levied to pay principal of and interest on the bonds.

(e) The original issuance of notes and any renewal thereof may be in the form of commercial paper notes. Each issuance of commercial paper notes to repay outstanding notes shall be deemed to be a renewal of notes subject only to the requirements of this section.

CHAPTER 335

An act to amend Sections 1872.8, 1872.81, and 1874.8 of, to add Sections 1872.86 and 1872.87 to, and to repeal Section 1872.7 of, the Insurance Code, relating to insurance fraud.

[Approved by Governor October 8, 2007. Filed with Secretary of State October 8, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 1872.7 of the Insurance Code is repealed.

SEC. 2. Section 1872.8 of the Insurance Code is amended to read:

1872.8. (a) Each insurer doing business in this state shall pay an annual special purpose assessment to be determined by the commissioner, but not to exceed one dollar ($1) annually for each vehicle insured under an insurance policy it issues in this state, in order to fund increased investigation and prosecution of fraudulent automobile insurance claims and economic automobile theft. Thirty-four percent of those funds received from ninety-five cents ($0.95) of the special purpose assessment per insured vehicle shall be distributed to the Fraud Division for enhanced investigative efforts, 15 percent of that ninety-five cents ($0.95) shall be deposited in the Motor Vehicle Account for appropriation to the Department of the California Highway Patrol for enhanced prevention and investigative efforts to deter economic automobile theft, and 51 percent of the funds shall be distributed to district attorneys for purposes of investigation and prosecution of automobile insurance fraud cases, including fraud involving economic automobile theft.

(b) (1) The commissioner shall award funds to district attorneys according to population. The commissioner may alter this distribution formula as necessary to achieve the most effective distribution of funds. Each local district attorney desiring a portion of those funds shall submit to the commissioner an application detailing the proposed use of any moneys that may be provided. The application shall include a detailed

accounting of assessment funds received and expended in prior years, including at a minimum, all of the following:

(A) The amount of funds received and expended.

(B) The uses to which those funds were put, including payment of salaries and expenses, purchase of equipment and supplies, and other expenditures by type.

(C) Results achieved as a consequence of expenditures made, including the number of investigations, arrests, complaints filed, convictions, and the amounts originally claimed in cases prosecuted compared to payments actually made in those cases.

(D) Other relevant information as the commissioner may reasonably require.

Any district attorney who fails to submit an application by the deadline set by the commissioner shall be subject to loss of distribution of the moneys. The commissioner may consider recommendations and advice of the Fraud Division and the Commissioner of the California Highway Patrol in allocating moneys to local district attorneys. Any district attorney that receives funds shall submit an annual report to the commissioner, which may be made public, as to the success of the program administered. The report shall provide information and statistics on the number of active investigations, arrests, indictments, and convictions. Both the application for moneys and the distribution of moneys shall be public documents. The commissioner shall conduct a fiscal audit of the programs administered under this subdivision at least once every three years. The cost of a fiscal audit shall be shared equally between the department and the district attorney. Information submitted to the commissioner pursuant to this section concerning criminal investigations, whether active or inactive, shall be confidential. If the commissioner determines that a district attorney is unable or unwilling to investigate and prosecute automobile insurance fraud claims as provided by this subdivision or Section 1874.8, the commissioner may discontinue the distribution of funds allocated for that county and may redistribute those funds to other eligible district attorneys.

(2) The Department of the California Highway Patrol shall submit to the commissioner, for informational purposes only, a report detailing the department's proposed use of funds under this section and an annual report in the same format as required of district attorneys under paragraph (1).

(c) The remaining five cents ($0.05) shall be spent for enhanced automobile insurance fraud investigation by the Fraud Division.

(d) Except for funds to be deposited in the Motor Vehicle Account for allocation to the Department of the California Highway Patrol for purposes of the Motor Vehicle Theft Prevention Act, (Chapter 5

(commencing with Section 10900) of Division 4 of the Vehicle Code), the funds received under this section shall be deposited in the Insurance Fund and be expended and distributed when appropriated by the Legislature.

(e) In the course of its investigations, the Fraud Division shall aggressively pursue all reported incidents of probable fraud and, in addition, shall forward to the appropriate disciplinary body the names of any individuals licensed under the Business and Professions Code who are suspected of actively engaging in fraudulent activity along with all relevant supporting evidence.

(f) As used in this section "economic automobile theft" means automobile theft perpetrated for financial gain, including, but not limited to, the following:

(1) Theft of a motor vehicle for financial gain.

(2) Reporting that a motor vehicle has been stolen for the purpose of filing a false insurance claim.

(3) Engaging in any act prohibited by Chapter 3.5 (commencing with Section 10801) of Division 4 of the Vehicle Code.

(4) Switching of vehicle identification numbers to obtain title to a stolen motor vehicle.

SEC. 3. Section 1872.81 of the Insurance Code is amended to read:

1872.81. In addition to the special purpose assessment imposed pursuant to Section 1872.8, each insurer doing business in this state shall pay to the commissioner an annual special purpose assessment of thirty cents ($0.30) for each vehicle insured under an insurance policy it issues in this state, for expenditure as follows:

(a) An amount equivalent to twenty cents ($0.20) of the special purpose assessment imposed per insured vehicle by this section shall be used for the purpose of paying for consumer service functions of the department that are related to automobile insurance. The revenues under this subdivision shall be used to improve service to consumers through the rating and underwriting services bureau, the claims services bureau, the investigations bureau, or any successor bureaus of the department that may assume the consumer service functions of these bureaus, and legal services in support of these bureaus. The department shall develop a plan for the use of the revenues available under this subdivision for the purposes authorized, and shall submit the plan to the Assembly and Senate Committees on Insurance.

(b) An amount equivalent to ten cents ($0.10) of the special purpose assessment imposed per insured vehicle by this section shall be used for the purpose of improving consumer functions of the department related to automobile insurance. Revenues available under this subdivision shall

be used to improve consumer functions through one or more of the following:

(1) The rating and underwriting services bureau.

(2) The claims services bureau.

(3) The investigations bureau.

(4) Any successor bureau of the department that may assume automobile insurance consumer functions of these bureaus, and legal services in support of these bureaus. These revenues may also be used for improving the ability of the department to respond to consumer complaints and information requests through the department's toll-free telephone number, and for improving the ability of the department to offer information about automobile insurance rates to the public. The department shall develop a plan for the use of the revenues available under this subdivision for the purpose authorized, and shall submit the plan to the Assembly and Senate Committees on Insurance.

(c) Notwithstanding subdivision (b), the Department of Insurance, after January 1, 2006, and the Department of Motor Vehicles, after that date, may propose to the budget committees of the Legislature a proposed use of up to five cents ($0.05) of the 10-cent special purpose assessment levied pursuant to subdivision (b) related to informing consumers about the existence of any low cost automobile insurance program authorized in law pursuant to Section 11629.7 or other statutes that also establish a program of the type identified in Section 11629.7. No funds for this purpose may be expended without prior budget approval. The total amount of funds authorized to both departments in total, or to one department in total, for this purpose shall not exceed five cents ($0.05). The departments shall explain, with as much specificity as is reasonably possible, the objectives for the use of the funds and quantitative criteria by which the Legislature may evaluate the effectiveness of the department's use of funds.

(d) At least five cents ($0.05) of the 10-cent special purpose assessment shall be directed to the purpose set forth in subdivision (a) until January 1, 2009, and to the degree that funding for low cost auto insurance is not fully appropriated up to five cents ($0.05), the difference thereof shall be additionally allocated to purposes set forth in subdivision (a).

(e) This section shall remain in effect only until January 1, 2010, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2010, deletes or extends that date.

SEC. 4. Section 1872.86 is added to the Insurance Code, to read:

1872.86. (a) Each insurer doing business in this state shall pay an annual special purpose assessment to be determined by the commissioner, not to exceed five thousand one hundred dollars ($5,100), to be used

exclusively for the support of the Fraud Division. All moneys received by the commissioner from insurers pursuant to this section shall be transmitted to the Treasurer to be deposited in the State Treasury to the credit of the Insurance Fund.

(b) The Fraud Division shall report annually, on the department's Web site, all of the following information:

(1) The number of suspected fraudulent claim referrals made to the Fraud Division pursuant to Section 1872.4, by line of insurance.

(2) The number of investigations opened by the Fraud Division, by line of insurance at the local, state, and federal level.

(3) The number of investigations referred by the Fraud Division for criminal prosecution, by line of insurance, at the local, state, and federal level.

(4) The number of insurer fraud cases investigated by the department's Enforcement Branch.

(5) The number of criminal complaints filed by prosecutors at the local, state, and federal level.

(6) The number of convictions at the local, state, and federal level.

(7) The total amount of court ordered restitution, and the amount collected by the courts for the victims.

(8) The number of training presentations focusing on the current schemes and trends, investigative tools and techniques, and proper reporting requirements needed to increase the quality of suspected fraudulent referrals by insurance industry special investigation units.

(9) The number of vacant peace officer positions, including information on the number and rate of vacancies for which an employment commitment has been made and on the number and rate of vacancies required to meet budgeted salary savings requirements.

SEC. 5. Section 1872.87 is added to the Insurance Code, to read:

1872.87. (a) Each insurer required to pay special purpose assessments pursuant to Sections 1872.8, 1872.81, 1874.8, or subdivision (a) of Section 1872.86 may, over a reasonable length of time, but in no event later than the calendar year in which the assessment is paid, recoup the special purpose assessments by way of a surcharge on premiums charged for the insurance policies to which those sections apply or by including the assessments within the insurer's rates. Amounts recouped shall not be considered premiums for any purpose, including the computation of gross premium tax or agents' commission.

(b) The amount of the surcharge shall be separately stated on either a billing or policy declaration sent to an insured.

(c) The commissioner, in consultation with the Director of Motor Vehicles, shall report to the Governor and to the chair and vice chair of the Joint Legislative Budget Committee prior to October 1, 2008, on the

feasibility and fiscal impact of transferring collection of the assessments specified in Sections 1872.8, 1872.81, and 1874.8 to the Department of Motor Vehicles to be performed in conjunction with the registration of motor vehicles.

SEC. 6. Section 1874.8 of the Insurance Code is amended to read:

1874.8. (a) Each insurer doing business in this state shall pay an annual special assessment to be determined by the commissioner, but not to exceed fifty cents ($0.50) annually for each vehicle insured under an insurance policy it issues in this state, in order to fund the Fraud Division and an Organized Automobile Fraud Activity Interdiction Program. The commissioner shall award 3 to 10 grants for a coordinated program targeted at the successful prosecution and elimination of organized automobile fraud activity. The grants may only be awarded to district attorneys.

(b) In determining whether to award a district attorney a grant, the commissioner shall consider factors indicating organized automobile fraud activity in the district attorney's county, including, but not limited to, the county's level of general criminal activity, population density, automobile insurance claims frequency, number of suspected fraudulent claims, and prior and current evidence of organized automobile fraud activity. Funding priority shall be given to those grant applications with the potential to have the greatest impact on organized automobile insurance fraud activity.

(c) All participants of a grant referred to in subdivision (a) shall coordinate their efforts and work in conjunction with the bureau, other participating agencies, and all interested insurers in this regard. Of the funds collected pursuant to this section, 42.5 percent shall be distributed to district attorneys, 42.5 percent shall be distributed to the Fraud Division, and 15 percent shall be distributed to the Department of the California Highway Patrol. Funds distributed pursuant to this section to the Fraud Division and to the Department of the California Highway Patrol shall be used to fund bureau and Department of the California Highway Patrol investigators who shall be assigned to work solely in conjunction with district attorneys who are awarded grants. Each grantee shall be notified by the Fraud Division of the investigators assigned to work with the grantee. Nothing shall prohibit the referral of any cases developed by the Fraud Division to any appropriate prosecutorial entity.

(d) A grant under this section shall be awarded on the basis of a single application for a period of three years and shall be subject where applicable to the requirements of subdivision (b) of Section 1872.8, except for the requirement that grants be awarded according to population. Continued funding of a grant shall be contingent upon a grantee's successful performance as determined by an annual review by

the commissioner. Any redirection of grant funds under this section shall be made only for good cause. The Department of the California Highway Patrol shall submit to the commissioner, for informational purposes only, an annual report on its expenditure of funds under this section in the same format as is required of grantees under this section.

(e) There shall be no prohibition against a joint application by two or more district attorneys for a grant award under this section.

(f) The Fraud Division shall report to the Governor, the Legislature, and to the committees of the Senate and Assembly having jurisdiction over insurance on the results of the grant program established by this section, including funding distributed to the Department of the California Highway Patrol in the annual report submitted pursuant to Section 12922.

(g) For purposes of this section, "organized automobile fraud activity" means two or more persons who conspire, aid and abet, or in any other manner act together, to engage in economic automobile theft as defined in subdivision (f) of Section 1872.8, or to violate any of the following provisions in relation to an automobile insurance claim:

(1) Section 650 or 6152 of the Business and Professions Code.

(2) Section 750 of the Insurance Code.

(3) Section 549, 550, or 551 of the Penal Code.

(h) This section shall remain in effect only until January 1, 2010, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2010, deletes or extends that date.

CHAPTER 336

An act to amend Sections 17244, 17245, 17246, and 17247 of, and to add Section 17240.5 to, the Government Code, relating to public finance.

[Approved by Governor October 8, 2007. Filed with Secretary of State October 8, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 17240.5 is added to the Government Code, to read:

17240.5. (a) If the Controller requests that registered reimbursement warrants be issued, and the Governor determines pursuant to Section 16381 that the need for those warrants is justified, a copy of the written request from the Controller shall also be provided to the chairperson and vice chairperson of the Senate Committee on Budget and Fiscal Review and the Assembly Committee on Budget, the chairperson and vice

chairperson of the Joint Legislative Budget Committee, and the chairperson and vice chairperson of the Senate and Assembly Committee on Appropriations.

(b) No later than 15 days following the completion of a registered reimbursement warrant issuance, the Controller shall report on the specific details of the issuance to the chairperson and vice chairperson of the Senate Committee on Budget and Fiscal Review and the Assembly Committee on Budget, the chairperson and vice chairperson of the Joint Legislative Budget Committee, and the chairperson and vice chairperson of the Senate and Assembly Committee on Appropriations.

SEC. 2. Section 17244 of the Government Code is amended to read:

17244. (a) In lieu of prescribing a precise interest rate on registered reimbursement warrants, the committee may fix a maximum rate of interest for the warrants, and prescribe that the interest rate thereon, not in excess of that maximum, shall be either of the following:

(1) Fixed in accordance with the best bids for the warrants if the warrants are sold at public sale.

(2) Fixed or variable on the terms and conditions the Controller shall approve at the time of sale of the warrants if the warrants are sold in negotiated sales.

(b) Different rates of interest for any reimbursement warrants may be so fixed or established by the Controller.

SEC. 3. Section 17245 of the Government Code is amended to read:

17245. Registered reimbursement warrants shall be sold by the Controller at public sale to the best bidders or in negotiated sales on the terms and conditions the Controller shall approve.

SEC. 4. Section 17246 of the Government Code is amended to read:

17246. Notice of public sale of registered reimbursement warrants shall be given by the Controller by publication, not less than three days prior to sale, at least once in a newspaper published in the City of Sacramento.

SEC. 5. Section 17247 of the Government Code is amended to read:

17247. The notice of public sale shall specify the amount of warrants to be sold, and the minimum amount for which the Controller will consider bids, and shall invite sealed bids for the purchase of the warrants. The notice shall state that no bid will be accepted that is less than the face value of the warrants bid for, and that the warrants will be awarded to the persons making the best bids as determined by the Controller, considering the interest rate and premium offered, if any.

CHAPTER 337

An act to add and repeal Section 21450.5 of the Vehicle Code, relating to vehicles.

[Approved by Governor October 8, 2007. Filed with Secretary of State October 8, 2007.]

The people of the State of California do enact as follows:

SECTION 1. (a) The Legislature hereby finds and declares the following:

(1) Bicyclists and motorcyclists are legitimate users of roadways in California.

(2) Traffic-actuated signals that do not detect bicycle or motorcycle traffic pose a danger to law-abiding bicyclists and motorcyclists.

(b) It is the intent of the Legislature in enacting this act to better protect law-abiding bicyclists and motorcyclists.

SEC. 2. Section 21450.5 is added to the Vehicle Code, to read:

21450.5. (a) A traffic-actuated signal is an official traffic control signal, as specified in Section 445, that displays one or more of its indications in response to the presence of traffic detected by mechanical, visual, electrical, or other means.

(b) Upon the first placement of a traffic-actuated signal or replacement of the loop detector of a traffic-actuated signal, the traffic-actuated signal shall, to the extent feasible and in conformance with professional traffic engineering practice, be installed and maintained so as to detect lawful bicycle or motorcycle traffic on the roadway.

(c) Cities, counties, and cities and counties shall not be required to comply with the provisions contained in subdivision (b) until the Department of Transportation, in consultation with these entities, has established uniform standards, specifications, and guidelines for the detection of bicycles and motorcycles by traffic-actuated signals and related signal timing.

(d) This section shall remain in effect only until January 1, 2018, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2018, deletes or extends that date.

SEC. 3. The Commission on State Mandates shall consult with the Department of Transportation when it develops parameters and guidelines for any mandate claim arising from the enactment of these provisions to ensure that eligible reimbursement is limited solely to the incremental costs of installing sensor wiring that can detect bicycle or motorcycle traffic.

SEC. 4. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

CHAPTER 338

An act to amend Sections 13000 and 15204 of, and to add Section 15204.5 to, the Food and Agricultural Code, relating to pesticides.

[Approved by Governor October 8, 2007. Filed with Secretary of State October 8, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 13000 of the Food and Agricultural Code is amended to read:

13000. (a) Except as provided in subdivisions (b) and (c), an action brought pursuant to this article shall be commenced by the director, the commissioner, the Attorney General, the district attorney, the city prosecutor, or the city attorney, as the case may be, within two years of the occurrence of the violation.

(b) When a commissioner submits a completed investigation to the director for action by the director or the Attorney General, the action shall be commenced within one year of that submission. However, nothing in this subdivision precludes the director from returning the investigation to the commissioner for action to be commenced by the commissioner, the district attorney, the city prosecutor, or the city attorney, as provided in subdivision (a).

(c) An action brought by the director to collect unpaid mill assessments and delinquent fees required by Article 4.5 (commencing with Section 12841) or an action brought by the director to collect civil penalties pursuant to Section 12999.4 for violations of Article 4.5 (commencing with Section 12841), Section 12992, Section 12993, or Section 12995 shall be commenced within four years of the occurrence of the violation.

SEC. 2. Section 15204 of the Food and Agricultural Code is amended to read:

15204. (a) Each licensed Branch 2 and Branch 3 structural pest control operator qualifying manager, as defined in Section 8506.2 of the Business and Professions Code, and Structural Pest Control Board

registered company, as defined in Section 8506.1 of the Business and Professions Code, shall register with the commissioner prior to operating a structural pest control business in the county. The registration shall cover a calendar year. A fee may also be required at the time of registration. The fee shall be set by the county board of supervisors, except that in no case shall the fee exceed the actual cost of processing the registration or ten dollars ($10), whichever is less. Payment of the fee shall be due by the date designated by the commissioner.

(b) Each registration shall be in a form prescribed by the director after consulting with the Structural Pest Control Board and commissioners and shall include the structural pest control licensee's name and address, including all satellite locations conducting business in the county, telephone numbers, responsible persons, and the type of pest control to be conducted.

(c) If ordered by the commissioner, other structural pest control licensees shall appear in person at the office of the commissioner to complete registration.

(d) The commissioner may levy a civil penalty against any person who violates the provisions of this section in accordance with the procedures provided in Section 12999.5.

SEC. 3. Section 15204.5 is added to the Food and Agricultural Code, to read:

15204.5. (a) It is unlawful for any licensed Branch 1 Structural Pest Controller licensee, including structural pest control operators, field representatives, applicators, and Structural Pest Control Board (SPCB) registered companies, as defined in Section 8506.1 of the Business and Professions Code, to conduct fumigations in any county unless that person or company has also registered for the current calendar year with the commissioner in that county. The registration fee for the SPCB registered company including structural pest control operators and field representatives and applicators shall be set by the county Board of Supervisors, but shall not exceed the cost of processing the registration or twenty-five dollars ($25), whichever is less. Payment of the fee shall be due at registration or on a date set by the commissioner. Structural pest control operators and field representatives may be added during the year, but the fee shall not exceed the actual cost of processing the registration or ten dollars ($10), whichever is less.

(b) Each registration shall be in the form prescribed by the director after consulting with the SPCB and the commissioners and shall include the name and address of the SPCB registered company or structural pest control operator and all satellite offices conducting business in the county, the name of the qualifying manager or the structural pest control operator and his or her license number, and a business telephone number. The

registration form for field representatives and applicators shall include their name, license number, business address, and telephone number, and may be included with the business registration.

(c) Each licensed structural pest controller, including structural pest control operators, field representatives, applicators, or an SPCB registered company, that intends to conduct fumigation operations is required to appear in person at the office of the commissioner to complete the registration required by Section 15204.

(d) Each SPCB registered company or structural pest control operator that intends to conduct fumigation operations shall notify the agricultural commissioner at least 24 hours prior to commencing fumigation, or as approved on a case-by-case basis by the commissioner. This notice shall include all of the following:

(1) Name and address of the registered company or structural pest control operator.

(2) Address of the area or areas to be fumigated.

(3) The pesticide to be applied.

(4) The date of the intended application.

(e) The commissioner may levy a civil penalty against any person who violates the provisions of this section in accordance with the procedures provided in Section 12999.5.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CHAPTER 339

An act to amend Sections 33527, 35781, 35783, 35783.1, 35861, 35891, 35893, 35971, 36861, 36951, 36981, 38421, 38671, 38731, and 38791 of, and to repeal and add Article 29 (commencing with Section 38761) of Chapter 5 of Part 3 of Division 15 of, the Food and Agricultural Code, relating to milk and dairy products.

[Approved by Governor October 8, 2007. Filed with Secretary of State October 8, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 33527 of the Food and Agricultural Code is amended to read:

33527. The milk or cream shall be cooled as provided in Section 35783 and so maintained until delivery to a milk products plant.

SEC. 2. Section 35781 of the Food and Agricultural Code is amended to read:

35781. (a) Except as otherwise provided in this article, market milk shall not contain any of the following:

(1) More than 15,000 bacteria per milliliter or more than 10 coliform bacteria per milliliter if to be sold as raw milk to the consumer.

(2) More than 50,000 bacteria per milliliter if to be sold as raw milk for pasteurization or more than 750 bacteria per milliliter after having been subjected to laboratory pasteurization which has a time-temperature equivalent to that required in Section 34001 before pasteurization.

(3) More than 15,000 bacteria per milliliter or more than 10 coliform bacteria per milliliter at time of delivery to the consumer, if pasteurized.

(4) More than 750 coliform bacteria per milliliter in raw milk for pasteurization. Samples shall be taken while the milk is on the premises of the producer.

(5) More than 800,000 somatic cells per milliliter, as determined by direct microscopic somatic cell count, electronic somatic cell count, or optical somatic cell count. After January 1, 1990, the maximum somatic cell count shall be 600,000 somatic cells per milliliter, as determined by the methods specified in this paragraph. This paragraph does not apply to market goat milk.

(b) The director may, by regulation, require different standards for raw market milk for pasteurization from the standards in this section if he or she determines, after an administrative hearing, that the standards are necessary to protect or improve milk quality.

SEC. 3. Section 35783 of the Food and Agricultural Code is amended to read:

35783. Market milk dairies shall provide sufficient refrigeration capacity to reduce the temperature of the milk, as indicated by a recording thermometer, to 50 degrees Fahrenheit (10 degrees Celsius) or less within four hours of the commencement of the first milking and to 45 degrees Fahrenheit (7 degrees Celsius) or less within two hours after the completion of milking, and to maintain the milk at that temperature until delivery. The blend temperature after the first milking and subsequent milkings shall not exceed 50 degrees Fahrenheit (10 degrees Celsius). Raw market milk in bulk milk tankers shall be maintained in transit at a temperature not exceeding 52 degrees Fahrenheit (11 degrees Celsius).

The director may promulgate regulations to provide for temporary deviations from the requirements of this section that may occur as a result of emergencies arising from equipment failure, or as a result of other unusual circumstances; provided, however, that the quality and safety of the product are not adversely affected.

SEC. 4. Section 35783.1 of the Food and Agricultural Code is amended to read:

35783.1. A recording thermometer shall be installed in each dairy farm milk storage tank used to cool or store raw market milk for pasteurization during the milking process. If a farm pickup tanker is used in lieu of a dairy farm tank, then the recording thermometer shall be installed in the pipeline following an effective cooling device that cools the milk to 45 degrees Fahrenheit (7 degrees Celsius) or less. Nothing in this section shall be construed as meaning that a recording thermometer must be attached when milk tankers are moved over the road. The director shall issue regulations providing standards for such thermometer including installation and operation.

SEC. 5. Section 35861 of the Food and Agricultural Code is amended to read:

35861. Guaranteed raw milk is market milk which conforms to all of the following minimum requirements:

(a) The health of the cows and goats shall be determined at least once each month by an official representative of an approved milk inspection service, or a milk inspection service which is established by the director.

(b) It shall be produced on dairy farms which score not less than 90 percent on the dairy farm scorecard.

(c) It shall be bottled on the premises where produced and delivered in containers which have the pouring lip completely protected from contamination.

(d) It shall be cooled as provided in Section 35782, and so maintained until it is delivered to the consumer, at which time it shall contain not more than 10,000 bacteria per milliliter or not more than 10 coliform bacteria per milliliter.

(e) It shall be sold to the consumer within 30 hours after production and labeled to indicate the date of sale to the consumer.

SEC. 6. Section 35891 of the Food and Agricultural Code is amended to read:

35891. Grade A raw milk is market milk which conforms to all the following minimum requirements:

(a) The health of the cows and goats shall be determined at least once in two months by an official representative of an approved milk inspection service, or a milk inspection service which is established by the director.

(b) It shall be produced on dairy farms that score not less than 90 percent on the dairy farm scorecard.

(c) It shall be cooled as provided in Section 35782 and so maintained until delivered to the consumer, at which time it shall contain not more than 15,000 bacteria per milliliter or more than 10 coliform bacteria per milliliter.

SEC. 7. Section 35893 of the Food and Agricultural Code is amended to read:

35893. Milk for grade A pasteurized milk is market milk that conforms to all the following minimum requirements:

(a) The health of the cows or goats shall be determined at least once in six months by an official representative of an approved milk inspection service, or a milk inspection service that is established by the director.

(b) The milk shall be cooled as provided in Section 35783.

(c) It shall be produced on dairy farms that score not less than 90 percent on the dairy farm scorecard that is adopted by the director.

(d) Shall meet the standards of Section 35781 or the regulation adopted pursuant thereto.

SEC. 8. Section 35971 of the Food and Agricultural Code is amended to read:

35971. Half-and-half is a food that complies with Section 131.180 of Title 21 of the Code of Federal Regulations. Half-and-half shall contain not more than 20,000 bacteria per milliliter and not more than 10 coliform bacteria per milliliter.

SEC. 9. Section 36861 of the Food and Agricultural Code is amended to read:

36861. Ice cream is a food that complies with Section 135.110 of Title 21 of the Code of Federal Regulations. Ice cream shall contain not more than 75,000 bacteria per gram.

SEC. 10. Section 36951 of the Food and Agricultural Code is amended to read:

36951. Sherbet is a food that complies with Section 135.140 of Title 21 of the Code of Federal Regulations. Sherbet shall contain not more than 75,000 bacteria per gram.

SEC. 11. Section 36981 of the Food and Agricultural Code is amended to read:

36981. Quiescently frozen confections means a clean and wholesome frozen, sweetened, flavored product in the manufacture of which freezing, which is not accompanied with stirring or agitation (generally known as quiescent freezing), has been used. This confection may be acidulated with harmless organic acid, may contain milk solids, may be made with or without added harmless pure or imitation flavoring, and with or without added harmless coloring approved by the secretary. The finished

product may contain stabilizers at a level that is necessary to achieve the desired function. Quiescently frozen confections shall contain no more than 75,000 bacteria per gram.

SEC. 12. Section 38421 of the Food and Agricultural Code is amended to read:

38421. Nonfat dry milk is a food that complies with Section 131.125 of Title 21 of the Code of Federal Regulations. Grade A nonfat dry milk shall contain not more than 30,000 bacteria per gram and not more than 10 coliform bacteria per gram. Manufacturing grade nonfat dry milk shall comply with standards of the United States Department of Agriculture.

SEC. 13. Section 38671 of the Food and Agricultural Code is amended to read:

38671. Sour cream is a food that complies with Section 131.160 of Title 21 of the Code of Federal Regulations. Sour cream shall contain not more than 10 coliform bacteria per gram.

SEC. 14. Section 38731 of the Food and Agricultural Code is amended to read:

38731. Yogurt is a food that complies with Section 131.200 of Title 21 of the Code of Federal Regulations. Yogurt shall contain not more than 10 coliform bacteria per gram, and shall contain not more than 10 colonies per gram each of molds, yeasts, and other fungi.

SEC. 15. Article 29 (commencing with Section 38761) of Chapter 5 of Part 3 of Division 15 of the Food and Agricultural Code is repealed.

SEC. 16. Article 29 (commencing with Section 38761) is added to Chapter 5 of Part 3 of Division 15 of the Food and Agricultural Code, to read:

Article 29. Light Cream, Heavy Cream, Whipping Creams, and Whipped Cream

38761. For the purposes of this article light cream, light whipping cream, heavy cream, and whipped cream are market cream products and shall contain not more than 20,000 bacteria per gram and not more than 10 coliform bacteria per gram.

38762. Light cream, coffee cream, or table cream is a food that complies with Section 131.155 of Title 21 of the Code of Federal Regulations.

38763. Light whipping cream or whipping cream is a food that complies with Section 131.157 of Title 21 of the Code of Federal Regulations.

38764. Heavy cream or heavy whipping cream is a food that complies with Section 131.150 of Title 21 of the Code of Federal Regulations.

38765. Whipped cream is a food that complies with Section 131.25 of Title 21 of the Code of Federal Regulations.

SEC. 17. Section 38791 of the Food and Agricultural Code is amended to read:

38791. Eggnog is a food that complies with Section 131.170 of Title 21 of the Code of Federal Regulations. Eggnog shall contain not more than 20,000 bacteria per gram and not more than 10 coliform bacteria per gram.

SEC. 18. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CHAPTER 340

An act to amend Section 53601 of the Government Code, and to amend Sections 75.52, 2504, 2613, 3362, 3372, 3691, 3692.4, 4911, and 5140 of the Revenue and Taxation Code, relating to government finance.

[Approved by Governor October 8, 2007. Filed with Secretary of State October 8, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 53601 of the Government Code is amended to read:

53601. This section shall apply to a local agency that is a city, a district, or other local agency that does not pool money in deposits or investments with other local agencies, other than local agencies that have the same governing body. However, Section 53635 shall apply to all local agencies that pool money in deposits or investments with other local agencies that have separate governing bodies. The legislative body of a local agency having money in a sinking fund or money in its treasury not required for the immediate needs of the local agency may invest any portion of the money that it deems wise or expedient in those investments set forth below. A local agency purchasing or obtaining any securities prescribed in this section, in a negotiable, bearer, registered, or nonregistered format, shall require delivery of the securities to the local

agency, including those purchased for the agency by financial advisers, consultants, or managers using the agency's funds, by book entry, physical delivery, or by third-party custodial agreement. The transfer of securities to the counterparty bank's customer book entry account may be used for book entry delivery.

For purposes of this section, "counterparty" means the other party to the transaction. A counterparty bank's trust department or separate safekeeping department may be used for the physical delivery of the security if the security is held in the name of the local agency. Where this section specifies a percentage limitation for a particular category of investment, that percentage is applicable only at the date of purchase. Where this section does not specify a limitation on the term or remaining maturity at the time of the investment, no investment shall be made in any security, other than a security underlying a repurchase or reverse repurchase agreement or securities lending agreement authorized by this section, that at the time of the investment has a term remaining to maturity in excess of five years, unless the legislative body has granted express authority to make that investment either specifically or as a part of an investment program approved by the legislative body no less than three months prior to the investment:

(a) Bonds issued by the local agency, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the local agency or by a department, board, agency, or authority of the local agency.

(b) United States Treasury notes, bonds, bills, or certificates of indebtedness, or those for which the faith and credit of the United States are pledged for the payment of principal and interest.

(c) Registered state warrants or treasury notes or bonds of this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the state or by a department, board, agency, or authority of the state.

(d) Registered treasury notes or bonds of any of the other 49 United States in addition to California,, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by a state or by a department, board, agency, or authority of any of the other 49 United States, in addition to California.

(e) Bonds, notes, warrants, or other evidences of indebtedness of any local agency within this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the local agency, or by a department, board, agency, or authority of the local agency.

(f) Federal agency or United States government-sponsored enterprise obligations, participations, or other instruments, including those issued

by or fully guaranteed as to principal and interest by federal agencies or United States government-sponsored enterprises.

(g) Bankers' acceptances otherwise known as bills of exchange or time drafts that are drawn on and accepted by a commercial bank. Purchases of bankers' acceptances may not exceed 180 days' maturity or 40 percent of the agency's money that may be invested pursuant to this section. However, no more than 30 percent of the agency's money may be invested in the bankers' acceptances of any one commercial bank pursuant to this section.

This subdivision does not preclude a municipal utility district from investing any money in its treasury in any manner authorized by the Municipal Utility District Act (Division 6 (commencing with Section 11501) of the Public Utilities Code).

(h) Commercial paper of "prime" quality of the highest ranking or of the highest letter and number rating as provided for by a nationally recognized statistical-rating organization (NRSRO). The entity that issues the commercial paper shall meet all of the following conditions in either paragraph (1) or paragraph (2):

(1) The entity meets the following criteria:

(A) Is organized and operating in the United States as a general corporation.

(B) Has total assets in excess of five hundred million dollars ($500,000,000).

(C) Has debt other than commercial paper, if any, that is rated "A" or higher by a nationally recognized statistical-rating organization (NRSRO).

(2) The entity meets the following criteria:

(A) Is organized within the United States as a special purpose corporation, trust, or limited liability company.

(B) Has programwide credit enhancements including, but not limited to, overcollateralization, letters of credit, or surety bond.

(C) Has commercial paper that is rated "A-1" or higher, or the equivalent, by a nationally recognized statistical-rating organization (NRSRO).

Eligible commercial paper shall have a maximum maturity of 270 days or less. Local agencies, other than counties or a city and county, may invest no more than 25 percent of their money in eligible commercial paper. Local agencies, other than counties or a city and county, may purchase no more than 10 percent of the outstanding commercial paper of any single issuer. Counties or a city and county may invest in commercial paper pursuant to the concentration limits in subdivision (a) of Section 53635.

(i) Negotiable certificates of deposit issued by a nationally or state-chartered bank, a savings association or a federal association (as defined by Section 5102 of the Financial Code), a state or federal credit union, or by a state-licensed branch of a foreign bank. Purchases of negotiable certificates of deposit may not exceed 30 percent of the agency's money which may be invested pursuant to this section. For purposes of this section, negotiable certificates of deposit do not come within Article 2 (commencing with Section 53630), except that the amount so invested shall be subject to the limitations of Section 53638. The legislative body of a local agency and the treasurer or other official of the local agency having legal custody of the money are prohibited from investing local agency funds, or funds in the custody of the local agency, in negotiable certificates of deposit issued by a state or federal credit union if a member of the legislative body of the local agency, or any person with investment decisionmaking authority in the administrative office manager's office, budget office, auditor-controller's office, or treasurer's office of the local agency also serves on the board of directors, or any committee appointed by the board of directors, or the credit committee or the supervisory committee of the state or federal credit union issuing the negotiable certificates of deposit.

(j) (1) Investments in repurchase agreements or reverse repurchase agreements or securities lending agreements of any securities authorized by this section, as long as the agreements are subject to this subdivision, including the delivery requirements specified in this section.

(2) Investments in repurchase agreements may be made, on any investment authorized in this section, when the term of the agreement does not exceed one year. The market value of securities that underlay a repurchase agreement shall be valued at 102 percent or greater of the funds borrowed against those securities and the value shall be adjusted no less than quarterly. Since the market value of the underlying securities is subject to daily market fluctuations, the investments in repurchase agreements shall be in compliance if the value of the underlying securities is brought back up to 102 percent no later than the next business day.

(3) Reverse repurchase agreements or securities lending agreements may be utilized only when all of the following conditions are met:

(A) The security to be sold on reverse repurchase agreement or securities lending agreement has been owned and fully paid for by the local agency for a minimum of 30 days prior to sale.

(B) The total of all reverse repurchase agreements and securities lending agreements on investments owned by the local agency does not exceed 20 percent of the base value of the portfolio.

(C) The agreement does not exceed a term of 92 days, unless the agreement includes a written codicil guaranteeing a minimum earning

or spread for the entire period between the sale of a security using a reverse repurchase agreement or securities lending agreement and the final maturity date of the same security.

(D) Funds obtained or funds within the pool of an equivalent amount to that obtained from selling a security to a counterparty by way of a reverse repurchase agreement or securities lending agreement shall not be used to purchase another security with a maturity longer than 92 days from the initial settlement date of the reverse repurchase agreement or securities lending agreement, unless the reverse repurchase agreement or securities lending agreement includes a written codicil guaranteeing a minimum earning or spread for the entire period between the sale of a security using a reverse repurchase agreement or securities lending agreement and the final maturity date of the same security.

(4) (A) Investments in reverse repurchase agreements, securities lending agreements, or similar investments in which the local agency sells securities prior to purchase with a simultaneous agreement to repurchase the security may only be made upon prior approval of the governing body of the local agency and shall only be made with primary dealers of the Federal Reserve Bank of New York or with a nationally or state-chartered bank that has or has had a significant banking relationship with a local agency.

(B) For purposes of this chapter, "significant banking relationship" means any of the following activities of a bank:

(i) Involvement in the creation, sale, purchase, or retirement of a local agency's bonds, warrants, notes, or other evidence of indebtedness.

(ii) Financing of a local agency's activities.

(iii) Acceptance of a local agency's securities or funds as deposits.

(5) (A) "Repurchase agreement" means a purchase of securities by the local agency pursuant to an agreement by which the counterparty seller will repurchase the securities on or before a specified date and for a specified amount and the counterparty will deliver the underlying securities to the local agency by book entry, physical delivery, or by third-party custodial agreement. The transfer of underlying securities to the counterparty bank's customer book-entry account may be used for book-entry delivery.

(B) "Securities," for purpose of repurchase under this subdivision, means securities of the same issuer, description, issue date, and maturity.

(C) "Reverse repurchase agreement" means a sale of securities by the local agency pursuant to an agreement by which the local agency will repurchase the securities on or before a specified date and includes other comparable agreements.

(D) "Securities lending agreement" means an agreement under which a local agency agrees to transfer securities to a borrower who, in turn,

agrees to provide collateral to the local agency. During the term of the agreement, both the securities and the collateral are held by a third party. At the conclusion of the agreement, the securities are transferred back to the local agency in return for the collateral.

(E) For purposes of this section, the base value of the local agency's pool portfolio shall be that dollar amount obtained by totaling all cash balances placed in the pool by all pool participants, excluding any amounts obtained through selling securities by way of reverse repurchase agreements, securities lending agreements, or other similar borrowing methods.

(F) For purposes of this section, the spread is the difference between the cost of funds obtained using the reverse repurchase agreement and the earnings obtained on the reinvestment of the funds.

(k) Medium-term notes, defined as all corporate and depository institution debt securities with a maximum remaining maturity of five years or less, issued by corporations organized and operating within the United States or by depository institutions licensed by the United States or any state and operating within the United States. Notes eligible for investment under this subdivision shall be rated "A" or better by a nationally recognized rating service. Purchases of medium-term notes shall not include other instruments authorized by this section and may not exceed 30 percent of the agency's money that may be invested pursuant to this section.

(*l*) (1) Shares of beneficial interest issued by diversified management companies that invest in the securities and obligations as authorized by subdivisions (a) to (j), inclusive, or subdivisions (m) or (n) and that comply with the investment restrictions of this article and Article 2 (commencing with Section 53630). However, notwithstanding these restrictions, a counterparty to a reverse repurchase agreement or securities lending agreement is not required to be a primary dealer of the Federal Reserve Bank of New York if the company's board of directors finds that the counterparty presents a minimal risk of default, and the value of the securities underlying a repurchase agreement or securities lending agreement may be 100 percent of the sales price if the securities are marked to market daily.

(2) Shares of beneficial interest issued by diversified management companies that are money market funds registered with the Securities and Exchange Commission under the Investment Company Act of 1940 (15 U.S.C. Sec. 80a-1 et seq.).

(3) If investment is in shares issued pursuant to paragraph (1), the company shall have met either of the following criteria:

(A) Attained the highest ranking or the highest letter and numerical rating provided by not less than two nationally recognized statistical rating organizations.

(B) Retained an investment adviser registered or exempt from registration with the Securities and Exchange Commission with not less than five years' experience investing in the securities and obligations authorized by subdivisions (a) to (j), inclusive, or subdivisions (m) or (n) and with assets under management in excess of five hundred million dollars ($500,000,000).

(4) If investment is in shares issued pursuant to paragraph (2), the company shall have met either of the following criteria:

(A) Attained the highest ranking or the highest letter and numerical rating provided by not less than two nationally recognized statistical rating organizations.

(B) Retained an investment adviser registered or exempt from registration with the Securities and Exchange Commission with not less than five years' experience managing money market mutual funds with assets under management in excess of five hundred million dollars ($500,000,000).

(5) The purchase price of shares of beneficial interest purchased pursuant to this subdivision shall not include any commission that the companies may charge and shall not exceed 20 percent of the agency's money that may be invested pursuant to this section. However, no more than 10 percent of the agency's funds may be invested in shares of beneficial interest of any one mutual fund pursuant to paragraph (1).

(m) Moneys held by a trustee or fiscal agent and pledged to the payment or security of bonds or other indebtedness, or obligations under a lease, installment sale, or other agreement of a local agency, or certificates of participation in those bonds, indebtedness, or lease installment sale, or other agreements, may be invested in accordance with the statutory provisions governing the issuance of those bonds, indebtedness, or lease installment sale, or other agreement, or to the extent not inconsistent therewith or if there are no specific statutory provisions, in accordance with the ordinance, resolution, indenture, or agreement of the local agency providing for the issuance.

(n) Notes, bonds, or other obligations that are at all times secured by a valid first priority security interest in securities of the types listed by Section 53651 as eligible securities for the purpose of securing local agency deposits having a market value at least equal to that required by Section 53652 for the purpose of securing local agency deposits. The securities serving as collateral shall be placed by delivery or book entry into the custody of a trust company or the trust department of a bank that is not affiliated with the issuer of the secured obligation, and the

security interest shall be perfected in accordance with the requirements of the Uniform Commercial Code or federal regulations applicable to the types of securities in which the security interest is granted.

(o) Any mortgage passthrough security, collateralized mortgage obligation, mortgage-backed or other pay-through bond, equipment lease-backed certificate, consumer receivable passthrough certificate, or consumer receivable-backed bond of a maximum of five years' maturity. Securities eligible for investment under this subdivision shall be issued by an issuer having an "A" or higher rating for the issuer's debt as provided by a nationally recognized rating service and rated in a rating category of "AA" or its equivalent or better by a nationally recognized rating service. Purchase of securities authorized by this subdivision may not exceed 20 percent of the agency's surplus money that may be invested pursuant to this section.

(p) Shares of beneficial interest issued by a joint powers authority organized pursuant to Section 6509.7 that invests in the securities and obligations authorized in subdivisions (a) to (n), inclusive. Each share shall represent an equal proportional interest in the underlying pool of securities owned by the joint powers authority. To be eligible under this section, the joint powers authority issuing the shares shall have retained an investment adviser that meets all of the following criteria:

(1) The adviser is registered or exempt from registration with the Securities and Exchange Commission.

(2) The adviser has not less than five years of experience investing in the securities and obligations authorized in subdivisions (a) to (n), inclusive.

(3) The adviser has assets under management in excess of five hundred million dollars ($500,000,000).

SEC. 2. Section 75.52 of the Revenue and Taxation Code is amended to read:

75.52. (a) Taxes on the supplemental bill are due on the date mailed and shall become delinquent as follows:

(1) If the bill is mailed within the months of July through October, the first installment shall become delinquent at 5 p.m. on December 10 of the same year. The second installment shall become delinquent at 5 p.m. on April 10 of the next year.

(2) If the bill is mailed within the months of November through June, the first installment shall become delinquent at 5 p.m. on the last day of the month following the month in which the bill is mailed. The second installment shall become delinquent at 5 p.m. on the last day of the fourth calendar month following the date the first installment is delinquent.

(b) If the taxes due are not paid on or before the date and time they become delinquent, a penalty of 10 percent shall attach to them.

(c) The cost enumerated in Section 2621 shall be collected after the second installment is delinquent.

(d) If a delinquent date specified in subdivision (a) falls on a Saturday, Sunday, or legal holiday, the time of delinquency is at 5 p.m. or at the close of business, whichever is later, on the next following business day. If the board of supervisors, by adoption of an ordinance or resolution, closes the county's offices for business prior to the time of delinquency on the "next business day" or for that whole day, that day shall be considered a legal holiday for purposes of this section.

(e) (1) The penalty imposed for delinquent taxes as provided by this article shall be canceled if the assessee or fee owner demonstrates to the tax collector that the delinquency is due to the tax collector's failure to mail or electronically transmit the tax bill to the address provided on the tax roll or electronic address provided and authorized by the taxpayer or fee owner to the tax collector. Penalties imposed may be canceled if the board of supervisors, upon recommendation of the tax collector, has authorized the tax collector to establish, and the tax collector has so established, specific procedures for the consideration of penalty cancellations. Those procedures may provide that penalties imposed may be canceled by resolution of the county board of supervisors upon the recommendation of the tax collector if the assessee or fee owner demonstrate to the tax collector that the delinquency is due to the county's failure to send a notice of taxes to the owner of property acquired after the lien date on the secured roll, provided payment of the amount of taxes due, minus any penalties and costs, is made no later than June 30 of the fiscal year in which the property owner is named as the assessee for taxes coming due.

(2) With respect to a late, amended, or corrected tax bill, the penalties imposed for delinquent taxes shall be canceled if the tax amount is paid within 30 days following the date that bill is mailed or electronically transmitted.

(3) Under no circumstance shall a taxpayer have fewer than 30 days to pay without penalty.

SEC. 3. Section 2504 of the Revenue and Taxation Code is amended to read:

2504. As used in this division, "negotiable paper" means checks, drafts, and money orders.

SEC. 4. Section 2613 of the Revenue and Taxation Code is amended to read:

2613. All taxes shall be paid at the tax collector's office unless the board of supervisors, upon recommendation of the tax collector and on or before the day when payments may be made, orders that taxes be

collected in any other or additional location, in addition to a location within the county.

SEC. 5. Section 3362 of the Revenue and Taxation Code is amended to read:

3362. The published notice shall show:

(a) The date of the notice.

(b) (1) That on July 1, five years or more will have elapsed since the property became tax defaulted; or

(2) That, on July 1, three years or more in the case of nonresidential commercial property, as defined in Section 3691, in an applicable county will have elapsed since the property became tax defaulted; or

(3) That, on July 1, in the case of real property that could serve the public benefit by providing housing or services directly related to low-income persons, three years or more have elapsed, and a request has been made by a city, county, city and county, or nonprofit organization, pursuant to Section 3692.4, to offer that property at the next scheduled public auction.

(c) That, unless sooner redeemed or an installment plan of redemption is initiated, the property will be sold.

(d) That the power to sell for nonpayment of taxes arises if the property remains tax defaulted at 12:01 a.m. on July 1.

(e) That if the property is sold for nonpayment of taxes the right of redemption will terminate.

(f) The official who will furnish all information concerning redemption.

(g) The fiscal year for which the defaulted taxes were levied.

(h) A description of the property. The assessments contained in this notice shall be numbered in ascending numerical order.

(i) The amount necessary to redeem the property as of the date specified in the publication opposite the description of the property.

(j) The name of the assessee on the current roll.

(k) The street address of the property, if any, shown on the county assessment records.

SEC. 6. Section 3372 of the Revenue and Taxation Code is amended to read:

3372. The notice shall show:

(a) The affidavit of tax default.

(b) The fact that the real property may be redeemed by the payment of the amount of defaulted taxes together with those additional penalties and fees as prescribed by law, or that the real property may be redeemed under an installment plan of redemption.

(c) The official who will furnish all information concerning redemption.

(d) The following information relating to each assessment of tax-defaulted property:

(1) The name of the assessee, and where there is more than one valuation the name of the assessee need be listed only once. For the purposes of this section, the name of the assessee may be the name of the assessee as shown on the current roll.

(2) The description of the property.

(3) The total amount necessary to redeem the property as of the date specified in the publication.

This information required to be published is the "published delinquent list." If any tax-defaulted property is redeemed, the information relating to the property may be omitted from any publication.

SEC. 7. Section 3691 of the Revenue and Taxation Code is amended to read:

3691. (a) (1) (A) Five years or more, or three years or more in the case of nonresidential commercial property, after the property has become tax defaulted, the tax collector shall have the power to sell and shall attempt to sell in accordance with Section 3692 all or any portion of tax-defaulted property that has not been redeemed, without regard to the boundaries of the parcels, as provided in this chapter, unless by other provisions of law the property is not subject to sale. Any person, regardless of any prior or existing lien on, claim to, or interest in, the property, may purchase at the sale. In the case of tax-defaulted property that has been damaged by a disaster in an area declared to be a disaster area by local, state, or federal officials and whose damage has not been substantially repaired, the five-year period set forth in this subdivision shall be tolled until five years have elapsed from the date the damage to the property was incurred.

(B) A county may elect, by an ordinance or resolution adopted by a majority vote of its entire governing body, to have the five-year time period described in subparagraph (A) apply to tax-defaulted nonresidential commercial property.

(C) For purposes of this subdivision, "nonresidential commercial property" means all property except the following:

(i) A constructed single-family or multifamily unit that is intended to be used primarily as a permanent residence, is used primarily as a permanent residence, or that is zoned as a residence, and the land on which that unit is constructed.

(ii) Real property that is used and zoned for producing commercial agricultural commodities.

(2) When a part of a tax-defaulted parcel is sold, the balance continues subject to redemption and shall be separately valued for the purpose of

redemption in the manner provided by Chapter 2 (commencing with Section 4131) of Part 7.

(3) The tax collector shall provide notice of an intended sale under this subdivision in the manner prescribed by Sections 3704 and 3704.5 and any other applicable statute. If the intended sale is of nonresidential commercial property that has been tax-defaulted for fewer than five years, all of the following apply:

(A) On or before the notice date, the tax collector shall also mail, in the manner specified in paragraph (1) of subdivision (c) of Section 2924b of the Civil Code, notice containing any information contained in the publication required under Sections 3704 and 3704.5 to, as applicable, all of the following:

(i) The parties specified in paragraph (2) of subdivision (c) of Section 2924b of the Civil Code.

(ii) Each taxing agency specified in paragraph (3) of subdivision (c) of Section 2924b of the Civil Code.

(iii) Any beneficiary of a deed of trust or a mortgagee of any mortgage recorded against the nonresidential commercial property, and any assignee or vendee of these beneficiaries or mortgagees.

(B) For purposes of this paragraph:

(i) "Notice date" means a date not less than 45 days nor more than 120 days before an intended sale or not less than 45 days nor more than 120 days before the date upon which the property may be sold.

(ii) "Recording date of the notice of default" as used in subdivision (c) of Section 2924b of the Civil Code means a date that is 30 days before the notice date.

(iii) "Deed of trust or mortgage being foreclosed" as used in subdivision (c) of Section 2924b of the Civil Code means the defaulted tax lien.

(b) (1) (A) Three years or more after the property has become tax defaulted and a request has been made by a city, county, city and county, or nonprofit organization pursuant to Section 3692.4, or a request has been made by a person or entity that has recorded a nuisance abatement lien on that property, to offer that property at the next scheduled tax sale, the tax collector shall have the power to sell and may sell all or any portion of tax-defaulted property that has not been redeemed, without regard to the boundaries of parcels, as provided in this chapter at the next scheduled tax sale, unless by other provisions of law the property is not subject to sale. Any person, regardless of any prior or existing lien on, claim to, or interest in, the property, may purchase at the sale.

(B) When a part of a tax-defaulted parcel is sold, the balance continues subject to redemption and shall be separately valued for the purpose of

redemption in the manner provided by Chapter 2 (commencing with Section 4131) of Part 7.

(2) Before the tax collector sells vacant residential developed property pursuant to this subdivision, actual notice, by certified mail, shall be provided to the property owner, if the property owner's identity can be determined from the county assessor's or county recorder's records. The tax collector's power of sale shall not be affected by the failure of the property owner to receive notice.

(3) Before the tax collector sells vacant residential developed property pursuant to this subdivision, notice of the sale shall be given in the manner specified by Section 3704.7.

(c) The amendments made to this section by the act adding this subdivision apply to property that becomes tax defaulted on or after January 1, 2005.

SEC. 8. Section 3692.4 of the Revenue and Taxation Code is amended to read:

3692.4. (a) Notwithstanding any other provision of law, any county, city, city and county, or any nonprofit organization as defined in Section 3772.5, may request the tax collector to bring to the next scheduled public auction any residential real property that meets all of the following requirements:

(1) The property taxes have been delinquent for at least three years.

(2) The real property will serve the public benefit of providing housing directly related to low-income persons.

(3) The real property is not occupied by the owner as his or her principal place of residence.

(b) Every request submitted to the tax collector shall include the following:

(1) A formal resolution of the governing board of the county, city, city and county, or nonprofit organization, requesting the accelerated auction of the real property and stating the public benefit.

(2) A written plan for the development, rehabilitation, or proposed use of the real property and how low-income persons will be served.

(c) Upon receiving a request as provided by this section, the tax collector shall include the real property in the next scheduled public auction.

(d) (1) If the real property is acquired by a nonprofit organization at auction, a deed restriction shall be placed on the real property, requiring the real property to be used for low-income housing for a period of at least 30 years.

(2) (A) In lieu of the 30-year restriction required by paragraph (1), the deed may provide for equity sharing upon resale, if the real property

is a single-family home that will be sold by the nonprofit organization to a low-income owner-occupant.

(B) To the extent not in conflict with another public funding source or law, all of the following shall apply to an equity-sharing agreement provided for by the deed:

(i) Upon resale by an owner-occupant of the home, the owner-occupant of the home shall retain the market value of any improvements, the downpayment, and his or her proportionate share of appreciation. The nonprofit organization shall recapture any initial subsidy and its proportionate share of appreciation, which shall then be used for the purpose of providing financial assistance to low-income homebuyers.

(ii) For purposes of this subdivision, the initial subsidy shall be equal to the fair market value of the home at the time of initial sale to the nonprofit organization minus the initial sale price to the low-income owner-occupant, plus the amount of any downpayment assistance or mortgage assistance. If upon resale by the owner-occupant the market value is lower than the initial market value, then the value at the time of the resale shall be used as the initial market value.

(iii) For purposes of this subdivision, the nonprofit organization's proportionate share of appreciation shall be equal to the ratio of the initial subsidy to the fair market value of the home at the time of initial sale.

(e) This section may not be construed to preclude the application, to the real property or the current owners of that property, of any other provision of law not in conflict with this section.

SEC. 9. Section 4911 of the Revenue and Taxation Code is amended to read:

4911. (a) If an assessee or agent of the assessee, by mistake, pays the tax on other than the property intended and by substantial evidence convinces the tax collector that the payment was intended for another property, the tax collector shall cancel the credit on the unintended property and transfer the payment to the property intended as prescribed in this article at any time before a guaranty or certificate of title issues respecting the unintended property and before two years have elapsed since the date of payment.

(b) If through no fault of the assessee or agent of the assessee, a tax payment is credited to property other than the property intended and the taxpayer by substantial evidence convinces the tax collector that the payment should have been credited to another property, the tax collector shall cancel the credit on the unintended property and transfer the payment to the property intended as prescribed in this article at any time before a guaranty or certificate of title issues respecting the unintended property and before two years have elapsed since the date of the payment.

(c) If any person mistakenly pays an amount of tax and there is no property of that person in the county to which that payment properly applies, the tax collector shall, by being convinced upon substantial evidence that the payment was a mistake, cancel the payment and return the amount paid to that person, as prescribed in this article at any time before a guaranty or certificate of title issues respecting the unintended property and before two years have elapsed since the date of the payment.

SEC. 10. Section 5140 of the Revenue and Taxation Code is amended to read:

5140. The person who paid the tax, his or her guardian or conservator, the executor of his or her will, or the administrator of his or her estate may bring an action only in the superior court, but not in the small claims division of the superior court, against a county or a city to recover a tax which the board of supervisors of the county or the city council of the city has refused to refund on a claim filed pursuant to Article 1 (commencing with Section 5096) of this chapter. No other person may bring such an action; but if another should do so, judgment shall not be rendered for the plaintiff.

SEC. 11. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district are the result of a program for which legislative authority was requested by that local agency or school district, within the meaning of Section 17556 of the Government Code and Section 6 of Article XIII B of the California Constitution.

CHAPTER 341

An act to amend Section 1789.30 of the Civil Code, and to amend Sections 18416, 18631.7, and 21006 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor October 8, 2007. Filed with Secretary of State October 8, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 1789.30 of the Civil Code is amended to read:

1789.30. (a) (1) Every check casher, as applicable to the services provided, shall post a complete, detailed, and unambiguous schedule of all fees for (A) cashing checks, drafts, money orders, or other commercial paper serving the same purpose, (B) the sale or issuance of money orders,

and (C) the initial issuance of any identification card. Each check casher shall also post a list of valid identification which is acceptable in lieu of identification provided by the check casher. The information required by this section shall be clear, legible, and in letters not less than one-half inch in height. The information shall be posted in a conspicuous location in the unobstructed view of the public within the check casher's premises.

(2) A check casher may be required to file a return required by Section 18631.7 of the Revenue and Taxation Code.

(b) (1) Except as provided in paragraph (2), this section shall become operative December 31, 2004.

(2) (A) Except as provided in subparagraph (B), paragraph (2) of subdivision (a) shall apply to checks cashed on or after January 1, 2006.

(B) The amendments to this section made by the act adding this subparagraph shall become operative on January 1, 2008.

SEC. 2. Section 18416 of the Revenue and Taxation Code is amended to read:

18416. (a) Unless expressly otherwise provided in this part, any notice may be given by first-class mail postage prepaid.

(b) For purposes of this part, any notice mailed to a taxpayer shall be sufficient if mailed to the taxpayer's last known address.

(c) The last known address shall be the address that appears on the taxpayer's last return filed with the Franchise Tax Board, unless the taxpayer has provided to the Franchise Tax Board clear and concise written or electronic notification of a different address, or the Franchise Tax Board has an address it has reason to believe is the most current address for the taxpayer.

SEC. 3. Section 18631.7 of the Revenue and Taxation Code is amended to read:

18631.7. (a) Any check casher engaged in the trade or business of cashing checks that, in the course of that trade or business, cashes checks other than one-party checks, payroll checks, or government checks totaling more than ten thousand dollars ($10,000) in one transaction or two or more transactions for the same person within the calendar year, shall file an informational return with the Franchise Tax Board with respect to that transaction or transactions.

(b) The return required in subdivision (a) shall be filed no later than 90 days after the end of the calendar year and in the form and manner prescribed by the Franchise Tax Board, and shall, at a minimum, contain both of the following:

(1) The name, address, taxpayer identification number, and any other identifying information of the person presenting the check that the Franchise Tax Board deems necessary.

(2) The amount and date of the transaction or transactions.

(c) For purposes of this section the following definitions apply:

(1) Except as otherwise provided, "check casher" means a check casher as defined under Section 1789.31 of the Civil Code.

(2) "Checks" includes warrants, drafts, money orders, and other commercial paper serving the same purposes, including payroll checks, government checks, and one-party checks.

(3) "Government check" means a check issued by a federal, state, or local governmental entity and treated as a government check pursuant to Section 1789.35 of the Civil Code for fee-setting purposes.

(4) "Payroll check" means a check for wages subject to withholding pursuant to Section 13020 of the Unemployment Insurance Code and treated as a payroll check pursuant to Section 1789.35 of the Civil Code for fee-setting purposes.

(5) "One-party check" means a check drawn upon the maker's account and presented by the maker.

(d) With respect to a person who fails to file the report required by this section or fails to include all of the information required to be shown on that report, both of the following apply:

(1) Sections 6721 and 6724 of the Internal Revenue Code, as those sections read on January 1, 2005, apply, except that the "Franchise Tax Board" is substituted for the "secretary" in each place it appears in those sections.

(2) If the failure was willful, the person, upon conviction, shall be punished by a fine of not more than twenty-five thousand dollars ($25,000) or, in the case of a corporation, not more than one hundred thousand dollars ($100,000), by imprisonment in a county jail for not more than one year, by imprisonment in the state prison, or by both that fine and imprisonment, together with the costs of prosecution.

SEC. 4. Section 21006 of the Revenue and Taxation Code is amended to read:

21006. (a) The board shall perform annually a systematic identification of areas of recurrent taxpayer noncompliance and shall report its findings to the Legislature on December 1 of each year.

(b) As part of the identification process described in subdivision (a), the board shall do both of the following:

(1) Compile and analyze sample data from its audit process, including, but not limited to, all of the following:

(A) The statute or regulation violated by the taxpayer.

(B) The amount of tax involved.

(C) The industry or business engaged in by the taxpayer.

(D) The number of years covered in the audit period.

(E) Whether professional tax preparation assistance was utilized by the taxpayer.

(F) Whether income tax or bank and corporation tax returns were filed by the taxpayer.

(2) Conduct an annual hearing before the board itself where industry representatives and individual taxpayers are allowed to present their proposals on changes to the Personal Income Tax Law or the Corporation Tax Law which may further facilitate achievement of the legislative findings.

(c) The board shall include in its report recommendations for improving taxpayer compliance and uniform administration, including, but not limited to, all of the following:

(1) Changes in statute or board regulations.

(2) Improvement of training of board personnel.

(3) Improvement of taxpayer communication and education.

(4) Increased enforcement capabilities.

CHAPTER 342

An act to amend Sections 6405, 6478, 7204.3, 7211, 7252, 7273, 7659.7, 9304, 18533, 30182, 30187, 41030, 41031, 41032, and 60653 of, to add Sections 7269, 7657.5, 8880, 11408.5, 30285, 32258, 38454.5, 40105, 41099, 43159.1, 43159.2, 45158, 46159, 50112.6, 55045.1, and 60210.5 to, to repeal Sections 7204.02, 7204.5, 7208, 7251.2, 7252.5, 7252.6, 7252.7, 7252.8, 7252.9, 7252.10, 7252.11, 7252.12, 7252.13, 7252.15, 7252.16, 7252.21, 7252.22, 7252.30, and 7271.05 of, and to repeal Chapter 2.67 (commencing with Section 7286.28) of, Chapter 2.8 (commencing with Section 7286.40) of, Chapter 2.90 (commencing with Section 7286.47) of, Chapter 2.95 (commencing with Section 7286.56) of, and Chapter 2.96 (commencing with Section 7286.65) of, Part 1.7 of Division 2 of, the Revenue and Taxation Code, relating to taxation.

[Approved by Governor October 8, 2007. Filed with Secretary of State October 8, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 6405 of the Revenue and Taxation Code is amended to read:

6405. Notwithstanding Section 6246, the storage, use, or other consumption in this state of the first eight hundred dollars ($800) of tangible personal property purchased in a foreign country by an individual from a retailer and personally hand-carried into this state from the foreign

country within any 30-day period is exempt from the use tax. This section shall not apply to property sent or shipped to this state.

SEC. 2. Section 6478 of the Revenue and Taxation Code is amended to read:

6478. (a) If a failure to make a prepayment as described in Section 6477 is due to negligence or intentional disregard of this part or authorized rules and regulations, the penalty shall be 10 percent instead of 6 percent.

(b) If any part of a deficiency in prepayment is due to negligence or intentional disregard of this part or authorized rules and regulations, a penalty of 10 percent of the deficiency shall be paid.

(c) The provisions of this section shall not apply to amounts subject to the provisions of Sections 6484, 6485, 6511, 6514, and 6591.

(d) The 10 percent negligence penalty shall become due and payable and shall be ascertained and determined in the same manner as the deficiency determination under Article 2 (commencing with Section 6481) of this chapter. The provisions of Article 5 (commencing with Section 6561) of this chapter shall be applicable with respect to the finality of the determination and the right to petition for redetermination.

SEC. 3. Section 7204.02 of the Revenue and Taxation Code is repealed.

SEC. 4. Section 7204.3 of the Revenue and Taxation Code is amended to read:

7204.3. The board shall charge a city, city and county, redevelopment agency, or county an amount for the board's services in administering the sales and use tax ordinance of the local entity, as determined by the board with the concurrence of the Department of Finance, as follows:

(a) Beginning with the 2006–07 fiscal year, the amount charged each local entity shall be based on the methodology described in Alternative 4C of the November 2004 report by the State Board of Equalization entitled "Response to the Supplemental Report of the 2004 Budget Act."

(1) The amount charged may be adjusted in the current fiscal year to reflect the difference between the board's budgeted costs and any significant revised estimate of costs. Any adjustment shall be subject to budgetary controls included in the Budget Act. Prior to any adjustment, the Department of Finance shall notify the Chairperson of the Joint Legislative Budget Committee not later than 30 days prior to the effective date of the adjustment.

(2) The amount charged each local entity shall be adjusted to reflect the difference between the board's recovered costs and the actual costs incurred by the board during the fiscal year two years prior.

(b) The amounts determined by subdivision (a) shall be deducted in equal amounts from the quarterly allocation of taxes collected by the board for the city, city and county, redevelopment agency, or county.

SEC. 5. Section 7204.5 of the Revenue and Taxation Code is repealed.

SEC. 6. Section 7208 of the Revenue and Taxation Code is repealed.

SEC. 7. Section 7211 of the Revenue and Taxation Code is amended to read:

7211. Notwithstanding Section 7203.5, the State Board of Equalization shall continue to administer the sales and use tax ordinance of any city, county, or city and county that adopts a transactions and use tax ordinance administered by the board in accordance with Part 1.6 (commencing with Section 7251).

SEC. 8. Section 7251.2 of the Revenue and Taxation Code is repealed.

SEC. 9. Section 7252 of the Revenue and Taxation Code is amended to read:

7252. "District," as used in this part, means any city, county, city and county, or other governmental entity authorized, to impose transaction and use taxes pursuant to this part.

SEC. 10. Section 7252.5 of the Revenue and Taxation Code is repealed.

SEC. 11. Section 7252.6 of the Revenue and Taxation Code is repealed.

SEC. 12. Section 7252.7 of the Revenue and Taxation Code is repealed.

SEC. 13. Section 7252.8 of the Revenue and Taxation Code is repealed.

SEC. 14. Section 7252.9 of the Revenue and Taxation Code is repealed.

SEC. 15. Section 7252.10 of the Revenue and Taxation Code, as added by Section 6 of Chapter 301 of the Statutes of 1986, is repealed.

SEC. 16. Section 7252.10 of the Revenue and Taxation Code, as added by Section 21 of Chapter 474 of the Statutes of 2001, is repealed.

SEC. 17. Section 7252.11 of the Revenue and Taxation Code is repealed.

SEC. 18. Section 7252.12 of the Revenue and Taxation Code is repealed.

SEC. 19. Section 7252.13 of the Revenue and Taxation Code is repealed.

SEC. 20. Section 7252.15 of the Revenue and Taxation Code is repealed.

SEC. 21. Section 7252.16 of the Revenue and Taxation Code is repealed.

SEC. 22. Section 7252.21 of the Revenue and Taxation Code is repealed.

SEC. 23. Section 7252.22 of the Revenue and Taxation Code is repealed.

SEC. 24. Section 7252.30 of the Revenue and Taxation Code is repealed.

SEC. 25. Section 7269 is added to the Revenue and Taxation Code, to read:

7269. The board may redistribute tax, penalty, or interest distributed to a district other than the district entitled thereto, but such redistribution shall not be made as to amounts originally distributed earlier than two quarterly periods prior to the quarterly period in which the board obtains knowledge of the improper distribution.

SEC. 26. Section 7271.05 of the Revenue and Taxation Code is repealed.

SEC. 27. Section 7273 of the Revenue and Taxation Code is amended to read:

7273. In addition to the amounts otherwise provided for preparatory costs, the board shall charge each district an amount for the board's services in administering the transactions and use tax determined by the board, with the concurrence of the Department of Finance, as follows:

(a) Beginning with the 2006–07 fiscal year, the amount charged all districts shall be based on the methodology described in Alternative 4C of the November 2004 report by the State Board of Equalization entitled "Response to the Supplemental Report of the 2004 Budget Act." The amount charged each district shall be based upon the district's proportional share of the revenue after weighting the revenue to equalize the differences in district tax rates.

(1) The amount charged each district may be adjusted in the current fiscal year to reflect the difference between the board's budgeted costs and any significant revised estimate of costs. Any adjustment shall be subject to budgetary controls included in the Budget Act. Prior to any adjustment, the Department of Finance shall notify the Chairperson of the Joint Legislative Budget Committee not later than 30 days prior to the effective date of the adjustment.

(2) The amount charged each district shall be adjusted to reflect the difference between the board's recovered costs and the actual costs incurred by the board during the fiscal year two years prior.

(b) The board shall, by June 1 of each year, notify districts of the amount that it anticipates will be assessed for the next fiscal year. The

districts shall be notified of the actual amounts that will be assessed within 30 days after enactment of the Budget Act for that fiscal year.

(c) The amount charged a district that becomes operative during the fiscal year shall be estimated for that fiscal year based on weighted revenue.

(d) The amounts determined by subdivision (a) shall be deducted in equal amounts from the quarterly allocation of taxes collected by the board for a given district.

SEC. 28. Chapter 2.67 (commencing with Section 7286.28) of Part 1.7 of Division 2 of the Revenue and Taxation Code is repealed.

SEC. 29. Chapter 2.8 (commencing with Section 7286.40) of Part 1.7 of Division 2 of the Revenue and Taxation Code is repealed.

SEC. 30. Chapter 2.90 (commencing with Section 7286.47) of Part 1.7 of Division 2 of the Revenue and Taxation Code is repealed.

SEC. 31. Chapter 2.95 (commencing with Section 7286.56) of Part 1.7 of Division 2 of the Revenue and Taxation Code is repealed.

SEC. 32. Chapter 2.96 (commencing with Section 7286.65) of Part 1.7 of Division 2 of the Revenue and Taxation Code is repealed.

SEC. 33. Section 7657.5 is added to the Revenue and Taxation Code, to read:

7657.5. (a) Under regulations prescribed by the board, if:

(1) A tax liability under this part was understated by a failure to file a return required to be filed under this part, by the omission of an amount properly includable therein, or by erroneous deductions or credits claimed on a return, and the understatement of tax liability is attributable to one spouse; or any amount of the tax reported on a return was unpaid and the nonpayment of the reported tax liability is attributable to one spouse.

(2) The other spouse establishes that he or she did not know of, and had no reason to know of, that understatement or nonpayment.

(3) Taking into account whether or not the other spouse significantly benefited directly or indirectly from the understatement or the nonpayment and taking into account all other facts and circumstances, it is inequitable to hold the other spouse liable for the deficiency in tax attributable to that understatement or nonpayment, then the other spouse shall be relieved of liability for tax (including interest, penalties, and other amounts) to the extent that the liability is attributable to that understatement or nonpayment of tax.

(b) For purposes of this section, the determination of the spouse to whom items of understatement or nonpayment are attributable shall be made without regard to community property laws.

(c) This section shall apply to all calendar months subject to the provisions of this part, but shall not apply to any calendar month that is more than five years from the final date on the board-issued

determination, five years from the return due date for nonpayment on a return, or one year from the first contact with the spouse making a claim under this section; or that has been closed by res judicata, whichever is later.

(d) For purposes of paragraph (2) of subdivision (a), "reason to know" means whether or not a reasonably prudent person would have had reason to know of the understatement or nonpayment.

(e) For purposes of this section, with respect to a failure to file a return or an omission of an item from the return, "attributable to one spouse" may be determined by whether a spouse rendered substantial service as a supplier entering, removing, or selling taxable motor vehicle fuel or an aircraft jet fuel dealer selling or using taxable aircraft jet fuel to which the understatement is attributable. If neither spouse rendered substantial services as a supplier or aircraft jet fuel dealer, then the attribution of applicable items of understatement shall be treated as community property. An erroneous deduction or credit shall be attributable to the spouse who caused that deduction or credit to be entered on the return.

(f) Under procedures prescribed by the board, if, taking into account all the facts and circumstances, it is inequitable to hold the other spouse liable for any unpaid tax or any deficiency (or any portion of either) attributable to any item for which relief is not available under subdivision (a), the board may relieve the other spouse of that liability.

(g) For purposes of this section, registered domestic partners, as defined in Section 297 of the Family Code, have the same rights, protections, and benefits as provided by this section, and are subject to the same responsibilities, obligations, and duties as imposed by this section, as are granted to and imposed upon spouses.

(h) The relief provided by this section shall apply retroactively to liabilities arising prior to the effective date of this section.

SEC. 34. Section 7659.7 of the Revenue and Taxation Code is amended to read:

7659.7. (a) If the failure to make a prepayment as described in Section 7659.6 is due to negligence or intentional disregard of this part or authorized rules and regulations, the penalty shall be 10 percent, instead of 6 percent.

(b) If any part of a deficiency in prepayment is due to negligence or intentional disregard of this part or authorized rules and regulations, a penalty of 10 percent of the deficiency shall be paid.

(c) The provisions of this section shall not apply to amounts subject to the provisions of Sections 7655, 7660, 7662, 7672, 7673, and 7726.

(d) The 10-percent negligence penalty shall become due and payable and shall be ascertained and determined in the same manner as the deficiency determination under Article 4 (commencing with Section

7670) of this chapter. The provisions of Article 6 (commencing with Section 7710) of this chapter shall be applicable with respect to the finality of the determination and the right of the supplier to petition for redetermination.

SEC. 35. Section 8880 is added to the Revenue and Taxation Code, to read:

8880. (a) Under regulations prescribed by the board, if:

(1) A tax liability under this part was understated by a failure to file a return required to be filed under this part, by the omission of an amount properly includable therein, or by erroneous deductions or credits claimed on a return, and the understatement of tax liability is attributable to one spouse; or any amount of the tax reported on a return was unpaid and the nonpayment of the reported tax liability is attributable to one spouse.

(2) The other spouse establishes that he or she did not know of, and had no reason to know of, that understatement or nonpayment.

(3) Taking into account whether or not the other spouse significantly benefited directly or indirectly from the understatement or the nonpayment and taking into account all other facts and circumstances, it is inequitable to hold the other spouse liable for the deficiency in tax attributable to that understatement or nonpayment, then the other spouse shall be relieved of liability for tax (including interest, penalties, and other amounts) to the extent that the liability is attributable to that understatement or nonpayment of tax.

(b) For purposes of this section, the determination of the spouse to whom items of understatement or nonpayment are attributable shall be made without regard to community property laws.

(c) This section shall apply to all calendar quarters subject to the provisions of this part, but shall not apply to any calendar quarter that is more than five years from the final date on the board-issued determination, five years from the return due date for nonpayment on a return, or one year from the first contact with the spouse making a claim under this section; or that has been closed by res judicata, whichever is later.

(d) For purposes of paragraph (2) of subdivision (a), "reason to know" means whether or not a reasonably prudent person would have had reason to know of the understatement or nonpayment.

(e) For purposes of this section, with respect to a failure to file a return or an omission of an item from the return, "attributable to one spouse" may be determined by whether a spouse rendered substantial service as a user using taxable fuel or a vendor selling taxable fuel to which the understatement is attributable. If neither spouse rendered substantial services as a user or a vendor, then the attribution of applicable items of understatement shall be treated as community property. An erroneous

deduction or credit shall be attributable to the spouse who caused that deduction or credit to be entered on the return.

(f) Under procedures prescribed by the board, if, taking into account all the facts and circumstances, it is inequitable to hold the other spouse liable for any unpaid tax or any deficiency (or any portion of either) attributable to any item for which relief is not available under subdivision (a), the board may relieve the other spouse of that liability.

(g) For purposes of this section, registered domestic partners, as defined in Section 297 of the Family Code, have the same rights, protections, and benefits as provided by this section, and are subject to the same responsibilities, obligations, and duties as imposed by this section, as are granted to and imposed upon spouses.

(h) The relief provided by this section shall apply retroactively to liabilities arising prior to the effective date of this section.

SEC. 36. Section 9304 of the Revenue and Taxation Code is amended to read:

9304. The Controller shall make the transfers at the same time as the transfers to the Highway Users Tax Account in the Transportation Tax Fund of moneys received under the Motor Vehicle Fuel Tax Law are made.

SEC. 37. Section 11408.5 is added to the Revenue and Taxation Code, to read:

11408.5. (a) Under regulations prescribed by the board, if:

(1) A tax liability under this part was understated by a failure to pay a tax levied and required to be paid under this part, by the omission of an amount properly includable therein, or by erroneous deductions or credits claimed, and the understatement of tax liability is attributable to one spouse; or any amount of the tax was unpaid and the nonpayment of the tax liability is attributable to one spouse.

(2) The other spouse establishes that he or she did not know of, and had no reason to know of, that understatement or nonpayment.

(3) Taking into account whether or not the other spouse significantly benefited directly or indirectly from the understatement or the nonpayment and taking into account all other facts and circumstances, it is inequitable to hold the other spouse liable for the deficiency in tax attributable to that understatement or nonpayment, then the other spouse shall be relieved of liability for tax (including interest, penalties, and other amounts) to the extent that the liability is attributable to that understatement or nonpayment of tax.

(b) For purposes of this section, the determination of the spouse to whom items of understatement or nonpayment are attributable shall be made without regard to community property laws.

(c) This section shall apply to all calendar years subject to the provisions of this part, but shall not apply to any calendar year that is more than five years from the final date on the board-issued determination, five years from the return due date for nonpayment on a return, or one year from the first contact with the spouse making a claim under this section; or that has been closed by res judicata, whichever is later.

(d) For purposes of paragraph (2) of subdivision (a), "reason to know" means whether or not a reasonably prudent person would have had reason to know of the understatement or nonpayment.

(e) For purposes of this section, with respect to a failure to pay a levy or an omission of an item from the payment, "attributable to one spouse" may be determined by whether a spouse rendered substantial service as a person that owns a private railroad car operated upon the railroads in this state to which the understatement is attributable. If neither spouse rendered substantial services as such a person, then the attribution of applicable items of understatement shall be treated as community property.

(f) Under procedures prescribed by the board, if, taking into account all the facts and circumstances, it is inequitable to hold the other spouse liable for any unpaid tax or any deficiency (or any portion of either) attributable to any item for which relief is not available under subdivision (a), the board may relieve the other spouse of that liability.

(g) For purposes of this section, registered domestic partners, as defined in Section 297 of the Family Code, have the same rights, protections, and benefits as provided by this section, and are subject to the same responsibilities, obligations, and duties as imposed by this section, as are granted to and imposed upon spouses.

(h) The relief provided by this section shall apply retroactively to liabilities arising prior to the effective date of this section.

SEC. 38. Section 18533 of the Revenue and Taxation Code, as amended by Section 2 of Chapter 353 of the Statutes of 2004, is amended to read:

18533. (a) (1) Notwithstanding subdivision (a) and the first sentence of subdivision (b) of Section 19006:

(A) An individual who has made a joint return may elect to seek relief under the procedures prescribed under subdivision (b), and

(B) If the individual is eligible to elect the application of subdivision (c), the individual may, in addition to any election under subparagraph (A), elect to limit the individual's liability for any deficiency with respect to the joint return in the manner prescribed under subdivision (c).

(2) Any determination under this section shall be made without regard to community property laws.

(b) (1) Under procedures prescribed by the Franchise Tax Board, if—

(A) A joint return has been made under this chapter for a taxable year,

(B) On that return there is an understatement of tax attributable to erroneous items of one individual filing the joint return,

(C) The other individual filing the joint return establishes that in signing the return he or she did not know of, and had no reason to know of, that understatement,

(D) Taking into account all facts and circumstances, it is inequitable to hold the other individual liable for the deficiency in tax for that taxable year attributable to that understatement, and

(E) The other individual elects (in the form and manner as the Franchise Tax Board may prescribe) the benefits of this subdivision not later than the date that is two years after the date the Franchise Tax Board has begun collection activities with respect to the individual making the election, then the other individual shall be relieved of liability for tax (including interest, penalties, and other amounts) for that taxable year to the extent that the liability is attributable to that understatement.

(2) If an individual who, but for subparagraph (C) of paragraph (1), would be relieved of liability under paragraph (1), establishes that in signing the return the individual did not know, and had no reason to know, the extent of the understatement, then the individual shall be relieved of liability for tax (including interest, penalties, and other amounts) for that taxable year to the extent that the liability is attributable to the portion of the understatement of which that individual did not know and had no reason to know.

(3) For purposes of this subdivision, the term "understatement" has the meaning given to that term by Section 6662(d)(2)(A) of the Internal Revenue Code.

(c) (1) Except as provided in this subdivision, if an individual who has made a joint return for any taxable year elects the application of this subdivision, the individual's liability for any deficiency that is assessed with respect to the return may not exceed the portion of the deficiency properly allocable to the individual under subdivision (d).

(2) Except as provided in clause (ii) of subparagraph (A) of paragraph (3) or subparagraph (C) of paragraph (3), each individual who elects the application of this subdivision shall have the burden of proof with respect to establishing the portion of any deficiency allocable to that individual.

(3) (A) (i) An individual shall only be eligible to elect the application of this subdivision if—

(I) At the time the election is filed, that individual is no longer married to, or is legally separated from, the individual with whom that individual filed the joint return to which the election relates, or

(II) That individual was not a member of the same household as the individual with whom the joint return was filed at any time during the 12-month period ending on the date the election is filed.

(ii) If the Franchise Tax Board demonstrates that assets were transferred between individuals filing a joint return as part of a fraudulent scheme by those individuals, an election under this subdivision by either individual shall be invalid (and subdivision (a) and the first sentence of subdivision (b) of Section 19006 shall apply to the joint return).

(B) An election under this subdivision for any taxable year shall be made not later than two years after the date on which the Franchise Tax Board has begun collection activities with respect to the individual making the election.

(C) If the Franchise Tax Board demonstrates that an individual making an election under this subdivision had actual knowledge, at the time the individual signed the return, of any item giving rise to a deficiency (or portion thereof) that is not allocable to the individual under subdivision (d), that election may not apply to that deficiency (or portion). This subparagraph does not apply where the individual with actual knowledge establishes that the individual signed the return under duress.

(4) (A) Notwithstanding any other provision of this subdivision, the portion of the deficiency for which the individual electing the application of this subdivision is liable (without regard to this paragraph) shall be increased by the value of any disqualified asset transferred to the individual.

(B) For purposes of this paragraph—

(i) The term "disqualified asset" means any property or right to property transferred to an individual making the election under this subdivision with respect to a joint return by the other individual filing the joint return if the principal purpose of the transfer was the avoidance of tax or payment of tax.

(ii) (I) For purposes of clause (i), except as provided in subclause (II), any transfer that is made after the date that is one year before the date on which the first notice of proposed assessment under Article 3 (commencing with Section 19031) of Chapter 4 is sent shall be presumed to have as its principal purpose the avoidance of tax or payment of tax.

(II) Subclause (I) does not apply to any transfer pursuant to a decree of divorce or separate maintenance or a written instrument incident to that decree or to any transfer that an individual establishes did not have as its principal purpose the avoidance of tax or payment of tax.

(d) For purposes of subdivision (c)—

(1) The portion of any deficiency on a joint return allocated to an individual shall be the amount that bears the same ratio to the deficiency as the net amount of items taken into account in computing the deficiency

and allocable to the individual under paragraph (3) bears to the net amount of all items taken into account in computing the deficiency.

(2) If a deficiency (or portion thereof) is attributable to—

(A) The disallowance of a credit, or

(B) Any tax (other than tax imposed by Section 17041 or 17062) required to be included with the joint return, and the item is allocated to one individual under paragraph (3), that deficiency (or portion) shall be allocated to that individual. Any item so allocated may not be taken into account under paragraph (1).

(3) For purposes of this subdivision—

(A) Except as provided in paragraphs (4) and (5), any item giving rise to a deficiency on a joint return shall be allocated to individuals filing the return in the same manner as it would have been allocated if the individuals had filed separate returns for the taxable year.

(B) Under rules prescribed by the Franchise Tax Board, an item otherwise allocable to an individual under subparagraph (A) shall be allocated to the other individual filing the joint return to the extent the item gave rise to a tax benefit on the joint return to the other individual.

(C) The Franchise Tax Board may provide for an allocation of any item in a manner not prescribed by subparagraph (A) if the Franchise Tax Board establishes that the allocation is appropriate due to fraud of one or both individuals.

(4) If an item of deduction or credit is disallowed in its entirety solely because a separate return is filed, the disallowance shall be disregarded and the item shall be computed as if a joint return had been filed and then allocated between the spouses appropriately.

(5) If the liability of a child of a taxpayer is included on a joint return, that liability shall be disregarded in computing the separate liability of either spouse and that liability shall be allocated appropriately between the spouses.

(e) (1) In the case of an individual who elects to have subdivision (b) or (c) apply—

(A) (i) The determination of the Franchise Tax Board as to whether the liability is to be revised as to one individual filing the joint return shall be made not less than 30 days after notification of the other individual filing the joint return.

(ii) Any action taken under this section shall be treated as though it were action on a protest taken under Section 19044 and shall become final upon the expiration of 30 days from the date that notice of the action is mailed to both individuals filing the joint return, unless, within that 30-day period, the individual making the election under subdivision (b) or (c) appeals the determination to the board as provided in clause (iii)

or the other individual filing the joint return appeals the determination to the board as provided in Section 19045.

(iii) The individual making the election under subdivision (b) or (c) may appeal the determination of the Franchise Tax Board of the appropriate relief available to the individual under this section if that appeal is filed during the 30-day period prescribed in clause (ii) and the appeal shall be treated as an appeal to the board under Section 19045. Notwithstanding the preceding sentence, the individual making the election under subdivision (b) or (c) may appeal to the board at any time after the date that is six months after the date the election is filed with the Franchise Tax Board and before the close of the 30-day period prescribed in clause (ii).

(B) Except as otherwise provided in Section 19081 or 19082, no levy or proceeding in court shall be made, begun, or prosecuted against the individual making an election under subdivision (b) or (c) for collection of any assessment to which the election relates until the expiration of the 30-day period described in clause (ii) of subparagraph (A), or, if an appeal to the board has been filed under clause (iii) or Section 19045, until the decision of the board has become final.

(2) The running of the period of limitations in Section 19371 on the collection of the assessment to which the petition under subparagraph (A) of paragraph (1) relates shall be suspended for the period during which the Franchise Tax Board is prohibited by subparagraph (B) of paragraph (1) from collecting by levy or a proceeding in court and for 60 days thereafter.

(3) (A) Except as provided in subparagraph (B), notwithstanding any other law or rule of law (other than Section 19306 and Article 6 (commencing with Section 19441) of Chapter 6), a credit or refund shall be allowed or made to the extent attributable to the application of this section.

(B) In the case of any election under subdivision (b) or (c), if a decision of the board in any prior proceeding for the same taxable year has become final, that decision shall be conclusive except with respect to the qualification of the individual for relief that was not an issue in that proceeding. The exception contained in the preceding sentence does not apply if the board determines that the individual participated meaningfully in the prior proceeding.

(C) No credit or refund shall be allowed as a result of an election under subdivision (c).

(f) Under procedures prescribed by the Franchise Tax Board, if taking into account all the facts and circumstances, it is inequitable to hold the individual liable for any unpaid tax or any deficiency (or any portion of

either), and relief is not available to the individual under subdivision (b) or (c), the Franchise Tax Board may relieve the individual of that liability.

(g) (1) The Franchise Tax Board may prescribe regulations providing methods for allocation of items other than the methods under paragraph (3) of subdivision (d).

(2) It is the intent of the Legislature that, in construing this section and any other sections that are specifically cross-referenced in this section, any regulations that may be promulgated by the Secretary of the Treasury under Section 6015 of the Internal Revenue Code, as amended by Public Law 105-206, shall apply to the extent that those regulations do not conflict with this section or with any regulations that may be promulgated by the Franchise Tax Board.

(h) (1) Except as provided in paragraph (2), the amendments made by Section 5 of Chapter 931 of the Statutes of 1999, shall apply to any liability for tax arising after October 10, 1999, and any liability for tax arising on or before that date but remaining unpaid as of that date.

(2) The period specified under subparagraph (E) of paragraph (1) of subdivision (b) or subparagraph (B) of paragraph (3) of subdivision (c) does not expire before the date that is four years after the date of the first collection activity after October 10, 1999.

(i) (1) An individual who has made a joint return and has been granted relief under Section 6015 of the Internal Revenue Code, relating to joint and several liability with respect to a federal joint income tax return, shall be eligible for relief under this section if all of the following conditions are satisfied:

(A) The individual requests relief under this section.

(B) The facts and circumstances that apply to the understatement and liabilities for which the relief is requested are the same facts and circumstances that applied to the understatement and liabilities for which that individual was granted relief under Section 6015 of the Internal Revenue Code.

(C) The individual requesting relief under this subdivision furnishes the Franchise Tax Board with a copy of the federal determination granting that individual relief under Section 6015 of the Internal Revenue Code. If the federal determination does not clearly identify the issues and liabilities for which the individual was granted relief under Section 6015 of the Internal Revenue Code, the Franchise Tax Board may request, from the individual requesting relief, any supporting documentation reasonably necessary to substantiate that the issues and liabilities for which relief is requested under this section are the same as the issues and liabilities for which the individual received relief under Section 6015 of the Internal Revenue Code.

(2) This subdivision does not apply if, prior to the expiration of the 30-day period described in clause (i) of subparagraph (A) of paragraph (1) of subdivision (e), the other individual that filed the joint return for which the relief is requested under this subdivision submits information to the Franchise Tax Board that indicates that relief should not be granted. For purposes of this paragraph, "information that indicates that relief should not be granted" is limited to the following:

(A) Information that indicates that the facts and circumstances that apply to the understatement and liabilities for which the relief is requested are not the same facts and circumstances that applied to the understatement and liabilities for which that individual was granted relief under Section 6015 of the Internal Revenue Code.

(B) Information that indicates that there has not been a federal determination granting relief under Section 6015 of the Internal Revenue Code or that the federal determination granting relief under Section 6015 of the Internal Revenue Code has been modified, altered, withdrawn, canceled, or rescinded.

(C) Information indicating that the other individual, as described in the first sentence of this paragraph, did not have the opportunity to participate, within the meaning of Section 6015 of the Internal Revenue Code and the regulations thereunder, in the federal administrative or judicial proceeding that resulted in relief under Section 6015 of the Internal Revenue Code.

(j) If, prior to the date the Franchise Tax Board issues its determination with respect to a request for relief under this section, the individual requesting relief demonstrates to the Franchise Tax Board that a request for relief has been filed with the Internal Revenue Service pursuant to Section 6015 of the Internal Revenue Code and demonstrates that the request for relief involves the same facts and circumstances as the request for relief that is pending before the Franchise Tax Board, the Franchise Tax Board may not deny relief with respect to that request, in whole or in part, until federal action on the request for relief under Section 6015 of the Internal Revenue Code is final.

(k) The provisions of subdivisions (i) and (j) shall apply to both of the following:

(1) Any tax liability that becomes final on or after the effective date of the act adding subdivisions (i) and (j) to this section.

(2) Any unpaid tax liability that became final prior to the effective date of the act adding subdivisions (i) and (j) to this section.

(*l*) An individual may not be granted relief under this section if a court has revised the tax liability in a proceeding for dissolution of the marriage in accordance with subdivision (b) of Section 19006.

(m) Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code shall not apply to any procedure or rule prescribed by the Franchise Tax Board pursuant to this section.

(n) This section shall cease to be operative on January 1, 2009, and as of that date is repealed.

SEC. 39. Section 18533 of the Revenue and Taxation Code, as amended by Section 3 of Chapter 353 of the Statutes of 2004, is amended to read:

18533. (a) (1) Notwithstanding subdivision (a) and the first sentence of subdivision (b) of Section 19006:

(A) An individual who has made a joint return may elect to seek relief under the procedures prescribed under subdivision (b), and

(B) If the individual is eligible to elect the application of subdivision (c), the individual may, in addition to any election under subparagraph (A), elect to limit the individual's liability for any deficiency with respect to the joint return in the manner prescribed under subdivision (c).

(2) Any determination under this section shall be made without regard to community property laws.

(b) (1) Under procedures prescribed by the Franchise Tax Board, if—

(A) A joint return has been made under this chapter for a taxable year,

(B) On that return there is an understatement of tax attributable to erroneous items of one individual filing the joint return,

(C) The other individual filing the joint return establishes that in signing the return he or she did not know of, and had no reason to know of, that understatement,

(D) Taking into account all facts and circumstances, it is inequitable to hold the other individual liable for the deficiency in tax for that taxable year attributable to that understatement, and

(E) The other individual elects (in the form and manner as the Franchise Tax Board may prescribe) the benefits of this subdivision not later than the date that is two years after the date the Franchise Tax Board has begun collection activities with respect to the individual making the election, then the other individual shall be relieved of liability for tax (including interest, penalties, and other amounts) for that taxable year to the extent that the liability is attributable to that understatement.

(2) If an individual who, but for subparagraph (C) of paragraph (1), would be relieved of liability under paragraph (1), establishes that in signing the return the individual did not know, and had no reason to know, the extent of the understatement, then the individual shall be relieved of liability for tax (including interest, penalties, and other amounts) for that taxable year to the extent that the liability is attributable

to the portion of the understatement of which that individual did not know and had no reason to know.

(3) For purposes of this subdivision, the term "understatement" has the meaning given to that term by Section 6662(d)(2)(A) of the Internal Revenue Code.

(c) (1) Except as provided in this subdivision, if an individual who has made a joint return for any taxable year elects the application of this subdivision, the individual's liability for any deficiency that is assessed with respect to the return may not exceed the portion of the deficiency properly allocable to the individual under subdivision (d).

(2) Except as provided in clause (ii) of subparagraph (A) of paragraph (3) or subparagraph (C) of paragraph (3), each individual who elects the application of this subdivision shall have the burden of proof with respect to establishing the portion of any deficiency allocable to that individual.

(3) (A) (i) An individual shall only be eligible to elect the application of this subdivision if—

(I) At the time the election is filed, that individual is no longer married to, or is legally separated from, the individual with whom that individual filed the joint return to which the election relates, or

(II) That individual was not a member of the same household as the individual with whom the joint return was filed at any time during the 12-month period ending on the date the election is filed.

(ii) If the Franchise Tax Board demonstrates that assets were transferred between individuals filing a joint return as part of a fraudulent scheme by those individuals, an election under this subdivision by either individual shall be invalid (and subdivision (a) and the first sentence of subdivision (b) of Section 19006 shall apply to the joint return).

(B) An election under this subdivision for any taxable year shall be made not later than two years after the date on which the Franchise Tax Board has begun collection activities with respect to the individual making the election.

(C) If the Franchise Tax Board demonstrates that an individual making an election under this subdivision had actual knowledge, at the time the individual signed the return, of any item giving rise to a deficiency (or portion thereof) that is not allocable to the individual under subdivision (d), that election does not apply to that deficiency (or portion). This subparagraph does not apply where the individual with actual knowledge establishes that the individual signed the return under duress.

(4) (A) Notwithstanding any other provision of this subdivision, the portion of the deficiency for which the individual electing the application of this subdivision is liable (without regard to this paragraph) shall be increased by the value of any disqualified asset transferred to the individual.

(B) For purposes of this paragraph—

(i) The term "disqualified asset" means any property or right to property transferred to an individual making the election under this subdivision with respect to a joint return by the other individual filing the joint return if the principal purpose of the transfer was the avoidance of tax or payment of tax.

(ii) (I) For purposes of clause (i), except as provided in subclause (II), any transfer that is made after the date that is one year before the date on which the first notice of proposed assessment under Article 3 (commencing with Section 19031) of Chapter 4 is sent shall be presumed to have as its principal purpose the avoidance of tax or payment of tax.

(II) Subclause (I) does not apply to any transfer pursuant to a decree of divorce or separate maintenance or a written instrument incident to that decree or to any transfer that an individual establishes did not have as its principal purpose the avoidance of tax or payment of tax.

(d) For purposes of subdivision (c)—

(1) The portion of any deficiency on a joint return allocated to an individual shall be the amount that bears the same ratio to the deficiency as the net amount of items taken into account in computing the deficiency and allocable to the individual under paragraph (3) bears to the net amount of all items taken into account in computing the deficiency.

(2) If a deficiency (or portion thereof) is attributable to—

(A) The disallowance of a credit, or

(B) Any tax (other than tax imposed by Section 17041 or 17062) required to be included with the joint return, and the item is allocated to one individual under paragraph (3), that deficiency (or portion) shall be allocated to that individual. Any item so allocated may not be taken into account under paragraph (1).

(3) For purposes of this subdivision—

(A) Except as provided in paragraphs (4) and (5), any item giving rise to a deficiency on a joint return shall be allocated to individuals filing the return in the same manner as it would have been allocated if the individuals had filed separate returns for the taxable year.

(B) Under rules prescribed by the Franchise Tax Board, an item otherwise allocable to an individual under subparagraph (A) shall be allocated to the other individual filing the joint return to the extent the item gave rise to a tax benefit on the joint return to the other individual.

(C) The Franchise Tax Board may provide for an allocation of any item in a manner not prescribed by subparagraph (A) if the Franchise Tax Board establishes that the allocation is appropriate due to fraud of one or both individuals.

(4) If an item of deduction or credit is disallowed in its entirety solely because a separate return is filed, the disallowance shall be disregarded

and the item shall be computed as if a joint return had been filed and then allocated between the spouses appropriately.

(5) If the liability of a child of a taxpayer is included on a joint return, that liability shall be disregarded in computing the separate liability of either spouse and that liability shall be allocated appropriately between the spouses.

(e) (1) In the case of an individual who elects to have subdivision (b) or (c) apply—

(A) (i) The determination of the Franchise Tax Board as to whether the liability is to be revised as to one individual filing the joint return shall be made not less than 30 days after notification of the other individual filing the joint return.

(ii) Any action taken under this section shall be treated as though it were action on a protest taken under Section 19044 and shall become final upon the expiration of 30 days from the date that notice of the action is mailed to both individuals filing the joint return, unless, within that 30-day period, the individual making the election under subdivision (b) or (c) appeals the determination to the board as provided in clause (iii) or the other individual filing the joint return appeals the determination to the board as provided in Section 19045.

(iii) The individual making the election under subdivision (b) or (c) may appeal the determination of the Franchise Tax Board of the appropriate relief available to the individual under this section if that appeal is filed during the 30-day period prescribed in clause (ii) and the appeal shall be treated as an appeal to the board under Section 19045. Notwithstanding the preceding sentence, the individual making the election under subdivision (b) or (c) may appeal to the board at any time after the date that is six months after the date the election is filed with the Franchise Tax Board and before the close of the 30-day period prescribed in clause (ii).

(B) Except as otherwise provided in Section 19081 or 19082, no levy or proceeding in court shall be made, begun, or prosecuted against the individual making an election under subdivision (b) or (c) for collection of any assessment to which the election relates until the expiration of the 30-day period described in clause (ii) of subparagraph (A), or, if an appeal to the board has been filed under clause (iii) or Section 19045, until the decision of the board has become final.

(2) The running of the period of limitations in Section 19371 on the collection of the assessment to which the petition under subparagraph (A) of paragraph (1) relates shall be suspended for the period during which the Franchise Tax Board is prohibited by subparagraph (B) of paragraph (1) from collecting by levy or a proceeding in court and for 60 days thereafter.

(3) (A) Except as provided in subparagraph (B), notwithstanding any other law or rule of law (other than Section 19306 and Article 6 (commencing with Section 19441) of Chapter 6), a credit or refund shall be allowed or made to the extent attributable to the application of this section.

(B) In the case of any election under subdivision (b) or (c), if a decision of the board in any prior proceeding for the same taxable year has become final, that decision shall be conclusive except with respect to the qualification of the individual for relief that was not an issue in that proceeding. The exception contained in the preceding sentence does not apply if the board determines that the individual participated meaningfully in the prior proceeding.

(C) No credit or refund shall be allowed as a result of an election under subdivision (c).

(f) Under procedures prescribed by the Franchise Tax Board, if taking into account all the facts and circumstances, it is inequitable to hold the individual liable for any unpaid tax or any deficiency (or any portion of either), and relief is not available to the individual under subdivision (b) or (c), the Franchise Tax Board may relieve the individual of that liability.

(g) (1) The Franchise Tax Board may prescribe regulations providing methods for allocation of items other than the methods under paragraph (3) of subdivision (d).

(2) It is the intent of the Legislature that, in construing this section and any other sections that are specifically cross-referenced in this section, any regulations that may be promulgated by the Secretary of the Treasury under Section 6015 of the Internal Revenue Code, as amended by Public Law 105-206, shall apply to the extent that those regulations do not conflict with this section or with any regulations that may be promulgated by the Franchise Tax Board.

(h) (1) Except as provided in paragraph (2), the amendments made by Section 5 of Chapter 931 of the Statutes of 1999 shall apply to any liability for tax arising after October 10, 1999, and any liability for tax arising on or before that date but remaining unpaid as of that date.

(2) The period specified under subparagraph (E) of paragraph (1) of subdivision (b) or subparagraph (B) of paragraph (3) of subdivision (c) does not expire before the date that is four years after the date of the first collection activity after October 10, 1999.

(i) An individual may not be granted relief under this section if a court has revised the tax liability in a proceeding for dissolution of the marriage in accordance with subdivision (b) of Section 19006.

(j) Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code shall not apply to any procedure or rule prescribed by the Franchise Tax Board pursuant to this section.

(k) This section shall become operative on January 1, 2009.

SEC. 40. Section 30182 of the Revenue and Taxation Code is amended to read:

30182. (a) Except as provided in subdivision (b), every distributor shall file, on or before the 25th day of each month, a report in the form as prescribed by the board, that may include, but not be limited to, electronic media with respect to distributions of cigarettes and purchases of stamps and meter register units during the preceding month and any other information as the board may require to carry out this part.

(b) Reports shall be authenticated in a form, or pursuant to, methods as may be prescribed by the board.

SEC. 41. Section 30187 of the Revenue and Taxation Code is amended to read:

30187. Every consumer or user subject to the tax resulting from a distribution of cigarettes or tobacco products within the meaning of subdivision (b) of Section 30008 from whom the tax has not been collected under Section 30108 shall, on or before the last day of the month following the end of the quarter, file with the board a report of the amount of cigarettes or tobacco products received by him or her in the preceding calendar quarter in that detail as the board may prescribe and in the form as prescribed by the board, which may include, but not be limited to, electronic media, submitting with the report the amount of tax due. Reports shall be authenticated in a form or pursuant to methods as may be prescribed by the board.

SEC. 42. Section 30285 is added to the Revenue and Taxation Code, to read:

30285. (a) Under regulations prescribed by the board, if:

(1) A tax liability under this part was understated by a failure to file a return or report, or both, required to be filed under this part, by the omission of an amount properly includable therein, or by erroneous deductions or credits claimed on a return or report, or both, and the understatement of tax liability is attributable to one spouse; or any amount of the tax reported on a return or report, or both, was unpaid and the nonpayment of the reported tax liability is attributable to one spouse.

(2) The other spouse establishes that he or she did not know of, and had no reason to know of, that understatement or nonpayment.

(3) Taking into account whether or not the other spouse significantly benefited directly or indirectly from the understatement or the nonpayment and taking into account all other facts and circumstances, it is inequitable to hold the other spouse liable for the deficiency in tax attributable to that understatement or nonpayment, then the other spouse shall be relieved of liability for tax (including interest, penalties, and

other amounts) to the extent that the liability is attributable to that understatement or nonpayment of tax.

(b) For purposes of this section, the determination of the spouse to whom items of understatement or nonpayment are attributable shall be made without regard to community property laws.

(c) This section shall apply to all calendar months subject to the provisions of this part, but shall not apply to any calendar month that is more than five years from the final date on the board-issued determination, five years from the return or report due date for nonpayment on a return or report, or one year from the first contact with the spouse making a claim under this section; or that has been closed by res judicata, whichever is later.

(d) For purposes of paragraph (2) of subdivision (a), "reason to know" means whether or not a reasonably prudent person would have had reason to know of the understatement or nonpayment.

(e) For purposes of this section, with respect to a failure to file a return or report, or both, or an omission of an item from the return or report, or both, "attributable to one spouse" may be determined by whether a spouse rendered substantial service as a distributor of cigarettes or tobacco products or who sells or accepts orders for cigarettes or tobacco products to be transported to a consumer in this state from somewhere out of this state to which the understatement is attributable. If neither spouse rendered substantial services as a distributor, then the attribution of applicable items of understatement shall be treated as community property. An erroneous deduction or credit shall be attributable to the spouse who caused that deduction or credit to be entered on the return or report, or both.

(f) Under procedures prescribed by the board, if, taking into account all the facts and circumstances, it is inequitable to hold the other spouse liable for any unpaid tax or any deficiency (or any portion of either) attributable to any item for which relief is not available under subdivision (a), the board may relieve the other spouse of that liability.

(g) For purposes of this section, registered domestic partners, as defined in Section 297 of the Family Code, have the same rights, protections, and benefits as provided by this section, and are subject to the same responsibilities, obligations, and duties as imposed by this section, as are granted to and imposed upon spouses.

(h) The relief provided by this section shall apply retroactively to liabilities arising prior to the effective date of this section.

SEC. 43. Section 32258 is added to the Revenue and Taxation Code, to read:

32258. (a) Under regulations prescribed by the board, if:

(1) A tax liability under this part was understated by a failure to file a return required to be filed under this part, by the omission of an amount properly includable therein, or by erroneous deductions or credits claimed on a return, and the understatement of tax liability is attributable to one spouse; or any amount of the tax reported on a return was unpaid and the nonpayment of the reported tax liability is attributable to one spouse.

(2) The other spouse establishes that he or she did not know of, and had no reason to know of, that understatement or nonpayment.

(3) Taking into account whether or not the other spouse significantly benefited directly or indirectly from the understatement or the nonpayment and taking into account all other facts and circumstances, it is inequitable to hold the other spouse liable for the deficiency in tax attributable to that understatement or nonpayment, then the other spouse shall be relieved of liability for tax (including interest, penalties, and other amounts) to the extent that the liability is attributable to that understatement or nonpayment of tax.

(b) For purposes of this section, the determination of the spouse to whom items of understatement or nonpayment are attributable shall be made without regard to community property laws.

(c) This section shall apply to all calendar months, quarters, or years subject to the provisions of this part, but shall not apply to any calendar month, quarter, or year that is more than five years from the final date on the board-issued determination, five years from the return due date for nonpayment on a return, or one year from the first contact with the spouse making a claim under this section; or that has been closed by res judicata, whichever is later.

(d) For purposes of paragraph (2) of subdivision (a), "reason to know" means whether or not a reasonably prudent person would have had reason to know of the understatement or nonpayment.

(e) For purposes of this section, with respect to a failure to file a return or an omission of an item from the return, "attributable to one spouse" may be determined by whether a spouse rendered substantial service as a manufacturer, wine-grower, importer, or seller of beer or wine, or as manufacturer, distilled spirits manufacturer's agent, brandy manufacturer, rectifier, wholesaler, or seller of distilled spirits to which the understatement is attributable. If neither spouse rendered substantial services as a manufacturer, wine-grower, importer, or seller of beer or wine, or as manufacturer, distilled spirits manufacturer's agent, brandy manufacturer, rectifier, wholesaler, or seller of distilled spirits, then the attribution of applicable items of understatement shall be treated as community property. An erroneous deduction or credit shall be attributable to the spouse who caused that deduction or credit to be entered on the return.

(f) Under procedures prescribed by the board, if, taking into account all the facts and circumstances, it is inequitable to hold the other spouse liable for any unpaid tax or any deficiency (or any portion of either) attributable to any item for which relief is not available under subdivision (a), the board may relieve the other spouse of that liability.

(g) For purposes of this section, registered domestic partners, as defined in Section 297 of the Family Code, have the same rights, protections, and benefits as provided by this section, and are subject to the same responsibilities, obligations, and duties as imposed by this section, as are granted to and imposed upon spouses.

(h) The relief provided by this section shall apply retroactively to liabilities arising prior to the effective date of this section.

SEC. 44. Section 38454.5 is added to the Revenue and Taxation Code, to read:

38454.5. (a) Under regulations prescribed by the board, if:

(1) A tax liability under this part was understated by a failure to file a return required to be filed under this part, by the omission of an amount properly includable therein, or by erroneous deductions or credits claimed on a return, and the understatement of tax liability is attributable to one spouse; or any amount of the tax reported on a return was unpaid and the nonpayment of the reported tax liability is attributable to one spouse.

(2) The other spouse establishes that he or she did not know of, and had no reason to know of, that understatement or nonpayment.

(3) Taking into account whether or not the other spouse significantly benefited directly or indirectly from the understatement or the nonpayment and taking into account all other facts and circumstances, it is inequitable to hold the other spouse liable for the deficiency in tax attributable to that understatement or nonpayment, then the other spouse shall be relieved of liability for tax (including interest, penalties, and other amounts) to the extent that the liability is attributable to that understatement or nonpayment of tax.

(b) For purposes of this section, the determination of the spouse to whom items of understatement or nonpayment are attributable shall be made without regard to community property laws.

(c) This section shall apply to all calendar quarters subject to the provisions of this part, but shall not apply to any calendar quarter that is more than five years from the final date on the board-issued determination, five years from the return due date for nonpayment on a return, or one year from the first contact with the spouse making a claim under this section; or that has been closed by res judicata, whichever is later.

(d) For purposes of paragraph (2) of subdivision (a), "reason to know" means whether or not a reasonably prudent person would have had reason to know of the understatement or nonpayment.

(e) For purposes of this section, with respect to a failure to file a return or an omission of an item from the return, "attributable to one spouse" may be determined by whether a spouse rendered substantial service as a timber owner who harvests timber or causes it to be harvested, is first to acquire title to felled or downed timber from an exempt person or agency, or without authorization, harvests or causes to be harvested timber owned by another to which the understatement is attributable. If neither spouse rendered substantial services as a timber owner, then the attribution of applicable items of understatement shall be treated as community property. An erroneous deduction or credit shall be attributable to the spouse who caused that deduction or credit to be entered on the return.

(f) Under procedures prescribed by the board, if, taking into account all the facts and circumstances, it is inequitable to hold the other spouse liable for any unpaid tax or any deficiency (or any portion of either) attributable to any item for which relief is not available under subdivision (a), the board may relieve the other spouse of that liability.

(g) For purposes of this section, registered domestic partners, as defined in Section 297 of the Family Code, have the same rights, protections, and benefits as provided by this section, and are subject to the same responsibilities, obligations, and duties as imposed by this section, as are granted to and imposed upon spouses.

(h) The relief provided by this section shall apply retroactively to liabilities arising prior to the effective date of this section.

SEC. 45. Section 40105 is added to the Revenue and Taxation Code, to read:

40105. (a) Under regulations prescribed by the board, if:

(1) A surcharge liability under this part was understated by a failure to file a return required to be filed under this part, by the omission of an amount properly includable therein, or by erroneous deductions or credits claimed on a return, and the understatement of surcharge liability is attributable to one spouse; or any amount of the surcharge reported on a return was unpaid and the nonpayment of the reported surcharge liability is attributable to one spouse.

(2) The other spouse establishes that he or she did not know of, and had no reason to know of, that understatement or nonpayment.

(3) Taking into account whether or not the other spouse significantly benefited directly or indirectly from the understatement or the nonpayment and taking into account all other facts and circumstances, it is inequitable to hold the other spouse liable for the deficiency in

surcharge attributable to that understatement or nonpayment, then the other spouse shall be relieved of liability for the surcharge (including interest, penalties, and other amounts) to the extent that the liability is attributable to that understatement or nonpayment of the surcharge.

(b) For purposes of this section, the determination of the spouse to whom items of understatement or nonpayment are attributable shall be made without regard to community property laws.

(c) This section shall apply to all calendar quarters subject to the provisions of this part, but shall not apply to any calendar quarter that is more than five years from the final date on the board-issued determination, five years from the return due date for nonpayment on a return, or one year from the first contact with the spouse making a claim under this section; or that has been closed by res judicata, whichever is later.

(d) For purposes of paragraph (2) of subdivision (a), "reason to know" means whether or not a reasonably prudent person would have had reason to know of the understatement or nonpayment.

(e) For purposes of this section, with respect to a failure to file a return or an omission of an item from the return, "attributable to one spouse" may be determined by whether a spouse rendered substantial service as an electric utility making sales of electrical energy or as a consumer of electrical energy to which the understatement is attributable. If neither spouse rendered substantial services as an electric utility or a consumer, then the attribution of applicable items of understatement shall be treated as community property. An erroneous deduction or credit shall be attributable to the spouse who caused that deduction or credit to be entered on the return.

(f) Under procedures prescribed by the board, if, taking into account all the facts and circumstances, it is inequitable to hold the other spouse liable for any unpaid surcharge or any deficiency (or any portion of either) attributable to any item for which relief is not available under subdivision (a), the board may relieve the other spouse of that liability.

(g) For purposes of this section, registered domestic partners, as defined in Section 297 of the Family Code, have the same rights, protections, and benefits as provided by this section, and are subject to the same responsibilities, obligations, and duties as imposed by this section, as are granted to and imposed upon spouses.

(h) The relief provided by this section shall apply retroactively to liabilities arising prior to the effective date of this section.

SEC. 46. Section 41030 of the Revenue and Taxation Code is amended to read:

41030. The Department of General Services shall determine annually, on or before October 1, a surcharge rate that it estimates will produce

sufficient revenue to fund the current fiscal year's 911 costs. The surcharge rate shall be determined by dividing the costs (including incremental costs) the Department of General Services estimates for the current fiscal year of 911 plans approved pursuant to Section 53115 of the Government Code, less the available balance in the State Emergency Telephone Number Account in the General Fund, by its estimate of the charges for intrastate telephone communications services to which the surcharge will apply for the period of January 1 to December 31 of the next succeeding calendar year, but in no event shall such surcharge rate in any year be greater than three-quarters of 1 percent nor less than one-half of 1 percent.

SEC. 47. Section 41031 of the Revenue and Taxation Code is amended to read:

41031. The Department of General Services shall make its determination of such surcharge rate each year no later than October 1 and shall notify the board of the new rate, which shall be fixed by the board to be effective with respect to charges made for intrastate telephone communication services on or after January 1 of the next succeeding calendar year.

SEC. 48. Section 41032 of the Revenue and Taxation Code is amended to read:

41032. Immediately upon notification by the Department of General Services and fixing the surcharge rate, the board shall each year no later than November 15 publish in its minutes the new rate, and it shall notify by mail every service supplier registered with it of the new rate.

SEC. 49. Section 41099 is added to the Revenue and Taxation Code, to read:

41099. (a) Under regulations prescribed by the board, if:

(1) A surcharge liability under this part was understated by a failure to file a return required to be filed under this part, by the omission of an amount properly includable therein, or by erroneous deductions or credits claimed on a return, and the understatement of surcharge liability is attributable to one spouse; or any amount of the surcharge reported on a return was unpaid and the nonpayment of the reported surcharge liability is attributable to one spouse.

(2) The other spouse establishes that he or she did not know of, and had no reason to know of, that understatement or nonpayment.

(3) Taking into account whether or not the other spouse significantly benefited directly or indirectly from the understatement or the nonpayment and taking into account all other facts and circumstances, it is inequitable to hold the other spouse liable for the deficiency in surcharge attributable to that understatement or nonpayment, then the other spouse shall be relieved of liability for the surcharge (including

interest, penalties, and other amounts) to the extent that the liability is attributable to that understatement or nonpayment of the surcharge.

(b) For purposes of this section, the determination of the spouse to whom items of understatement or nonpayment are attributable shall be made without regard to community property laws.

(c) This section shall apply to all calendar months, quarters, or years subject to the provisions of this part, but shall not apply to any calendar month, quarter, or year that is more than five years from the final date on the board-issued determination, five years from the return due date for nonpayment on a return, or one year from the first contact with the spouse making a claim under this section; or that has been closed by res judicata, whichever is later.

(d) For purposes of paragraph (2) of subdivision (a), "reason to know" means whether or not a reasonably prudent person would have had reason to know of the understatement or nonpayment.

(e) For purposes of this section, with respect to a failure to file a return or an omission of an item from the return, "attributable to one spouse" may be determined by whether a spouse rendered substantial service as a service supplier of intrastate telephone communications services to service users or as a user of intrastate telephone communication services to which the understatement is attributable. If neither spouse rendered substantial services as a service supplier or as a service user, then the attribution of applicable items of understatement shall be treated as community property. An erroneous deduction or credit shall be attributable to the spouse who caused that deduction or credit to be entered on the return.

(f) Under procedures prescribed by the board, if, taking into account all the facts and circumstances, it is inequitable to hold the other spouse liable for any unpaid surcharge or any deficiency (or any portion of either) attributable to any item for which relief is not available under subdivision (a), the board may relieve the other spouse of that liability.

(g) For purposes of this section, registered domestic partners, as defined in Section 297 of the Family Code, have the same rights, protections, and benefits as provided by this section, and are subject to the same responsibilities, obligations, and duties as imposed by this section, as are granted to and imposed upon spouses.

(h) The relief provided by this section shall apply retroactively to liabilities arising prior to the effective date of this section.

SEC. 50. Section 43159.1 is added to the Revenue and Taxation Code, to read:

43159.1. (a) Under regulations prescribed by the board, except for a fee imposed pursuant to Section 105310 of the Health and Safety Code, if:

(1) A tax liability under this part was understated by a failure to file a return required to be filed under this part, by the omission of an amount properly includable therein, or by erroneous deductions or credits claimed on a return, and the understatement of tax liability is attributable to one spouse; or any amount of the tax reported on a return was unpaid and the nonpayment of the reported tax liability is attributable to one spouse.

(2) The other spouse establishes that he or she did not know of, and had no reason to know of, that understatement or nonpayment.

(3) Taking into account whether or not the other spouse significantly benefited directly or indirectly from the understatement or the nonpayment and taking into account all other facts and circumstances, it is inequitable to hold the other spouse liable for the deficiency in tax attributable to that understatement or nonpayment, then the other spouse shall be relieved of liability for tax (including interest, penalties, and other amounts) to the extent that the liability is attributable to that understatement or nonpayment of tax.

(b) For purposes of this section, the determination of the spouse to whom items of understatement or nonpayment are attributable shall be made without regard to community property laws.

(c) This section shall apply to all calendar months or years subject to the provisions of this part, but shall not apply to any calendar month or year that is more than five years from the final date on the board-issued determination, five years from the return due date for nonpayment on a return, or one year from the first contact with the spouse making a claim under this section; or that has been closed by res judicata, whichever is later.

(d) For purposes of paragraph (2) of subdivision (a), "reason to know" means whether or not a reasonably prudent person would have had reason to know of the understatement or nonpayment.

(e) For purposes of this section, with respect to a failure to file a return or an omission of an item from the return, "attributable to one spouse" may be determined by whether a spouse rendered substantial service as a taxpayer with respect to the taxes administered under this part to which the understatement is attributable. If neither spouse rendered substantial services as a taxpayer, then the attribution of applicable items of understatement shall be treated as community property. An erroneous deduction or credit shall be attributable to the spouse who caused that deduction or credit to be entered on the return.

(f) Under procedures prescribed by the board, if, taking into account all the facts and circumstances, it is inequitable to hold the other spouse liable for any unpaid tax or any deficiency (or any portion of either) attributable to any item for which relief is not available under subdivision (a), the board may relieve the other spouse of that liability.

(g) For purposes of this section, registered domestic partners, as defined in Section 297 of the Family Code, have the same rights, protections, and benefits as provided by this section, and are subject to the same responsibilities, obligations, and duties as imposed by this section, as are granted to and imposed upon spouses.

(h) The relief provided by this section shall apply retroactively to liabilities arising prior to the effective date of this section.

SEC. 51. Section 43159.2 is added to the Revenue and Taxation Code, to read:

43159.2. (a) Under regulations prescribed by the board, with respect to a fee imposed pursuant to Section 105310 of the Health and Safety Code, if:

(1) A fee liability due on a notice of determination or other billing document for collection of the fee under this part was unpaid and the nonpayment of the fee liability is attributable to one spouse.

(2) The other spouse establishes that he or she did not know of, and had no reason to know of, that nonpayment.

(3) Taking into account whether or not the other spouse significantly benefited directly or indirectly from the nonpayment and taking into account all other facts and circumstances, it is inequitable to hold the other spouse liable for the deficiency in the fee attributable to that nonpayment, then the other spouse shall be relieved of liability for the fee (including interest, penalties, and other amounts) to the extent that the liability is attributable to that nonpayment of the fee.

(b) For purposes of this section, the determination of the spouse to whom items of nonpayment are attributable shall be made without regard to community property laws.

(c) This section shall apply to all calendar years subject to the provisions of this part, but shall not apply to any calendar year that is more than five years from the final date on the board-issued determination or other similar billing document for collection of the fee, five years from the due date for payment on the billing, or one year from the first contact with the spouse making a claim under this section; or that has been closed by res judicata, whichever is later.

(d) For purposes of paragraph (2) of subdivision (a), "reason to know" means whether or not a reasonably prudent person would have had reason to know of the understatement or nonpayment.

(e) For purposes of this section, with respect to a failure to pay a notice of determination or similar billing document for collection of the fee, "attributable to one spouse" may be determined by whether a spouse rendered substantial service as a feepayer with respect to a fee imposed under Section 105310 of the Health and Safety Code to which the nonpayment is attributable. If neither spouse rendered substantial services

as a feepayer, then the attribution of the nonpayment shall be treated as community property.

(f) Under procedures prescribed by the board, if, taking into account all the facts and circumstances, it is inequitable to hold the other spouse liable for any unpaid fee or any deficiency (or any portion of either) attributable to any item for which relief is not available under subdivision (a), the board may relieve the other spouse of that liability.

(g) For purposes of this section, registered domestic partners, as defined in Section 297 of the Family Code, have the same rights, protections, and benefits as provided by this section, and are subject to the same responsibilities, obligations, and duties as imposed by this section, as are granted to and imposed upon spouses.

(h) The relief provided by this section shall apply retroactively to liabilities arising prior to the effective date of this section.

SEC. 52. Section 45158 is added to the Revenue and Taxation Code, to read:

45158. (a) Under regulations prescribed by the board, if:

(1) A fee liability under this part was understated by a failure to file a return required to be filed under this part, by the omission of an amount properly includable therein, or by erroneous deductions or credits claimed on a return, and the understatement of fee liability is attributable to one spouse; or any amount of the fee reported on a return was unpaid and the nonpayment of the reported fee liability is attributable to one spouse.

(2) The other spouse establishes that he or she did not know of, and had no reason to know of, that understatement or nonpayment.

(3) Taking into account whether or not the other spouse significantly benefited directly or indirectly from the understatement or the nonpayment and taking into account all other facts and circumstances, it is inequitable to hold the other spouse liable for the deficiency in fee attributable to that understatement or nonpayment, then the other spouse shall be relieved of liability for the fee (including interest, penalties, and other amounts) to the extent that the liability is attributable to that understatement or nonpayment of the fee.

(b) For purposes of this section, the determination of the spouse to whom items of understatement or nonpayment are attributable shall be made without regard to community property laws.

(c) This section shall apply to all calendar quarters subject to the provisions of this part, but shall not apply to any calendar quarter that is more than five years from the final date on the board-issued determination, five years from the return due date for nonpayment on a return, or one year from the first contact with the spouse making a claim under this section; or that has been closed by res judicata, whichever is later.

(d) For purposes of paragraph (2) of subdivision (a), "reason to know" means whether or not a reasonably prudent person would have had reason to know of the understatement or nonpayment.

(e) For purposes of this section, with respect to a failure to file a return or an omission of an item from the return, "attributable to one spouse" may be determined by whether a spouse rendered substantial service as an operator of a facility for disposal of solid waste to which the understatement is attributable. If neither spouse rendered substantial services as an operator, then the attribution of applicable items of understatement shall be treated as community property. An erroneous deduction or credit shall be attributable to the spouse who caused that deduction or credit to be entered on the return.

(f) Under procedures prescribed by the board, if, taking into account all the facts and circumstances, it is inequitable to hold the other spouse liable for any unpaid tax or any deficiency (or any portion of either) attributable to any item for which relief is not available under subdivision (a), the board may relieve the other spouse of that liability.

(g) For purposes of this section, registered domestic partners, as defined in Section 297 of the Family Code, have the same rights, protections, and benefits as provided by this section, and are subject to the same responsibilities, obligations, and duties as imposed by this section, as are granted to and imposed upon spouses.

(h) The relief provided by this section shall apply retroactively to liabilities arising prior to the effective date of this section.

SEC. 53. Section 46159 is added to the Revenue and Taxation Code, to read:

46159. (a) Under regulations prescribed by the board, if:

(1) A fee liability under this part was understated by a failure to file a return required to be filed under this part, by the omission of an amount properly includable therein, or by erroneous deductions or credits claimed on a return, and the understatement of the fee liability is attributable to one spouse; or any amount of the fee reported on a return was unpaid and the nonpayment of the reported fee liability is attributable to one spouse.

(2) The other spouse establishes that he or she did not know of, and had no reason to know of, that understatement or nonpayment.

(3) Taking into account whether or not the other spouse significantly benefited directly or indirectly from the understatement or the nonpayment and taking into account all other facts and circumstances, it is inequitable to hold the other spouse liable for the deficiency in fee attributable to that understatement or nonpayment, then the other spouse shall be relieved of liability for the fee (including interest, penalties, and

other amounts) to the extent that the liability is attributable to that understatement or nonpayment of the fee.

(b) For purposes of this section, the determination of the spouse to whom items of understatement or nonpayment are attributable shall be made without regard to community property laws.

(c) This section shall apply to all calendar months subject to the provisions of this part, but shall not apply to any calendar month that is more than five years from the final date on the board-issued determination, five years from the return due date for nonpayment on a return, or one year from the first contact with the spouse making a claim under this section; or that has been closed by res judicata, whichever is later.

(d) For purposes of paragraph (2) of subdivision (a), "reason to know" means whether or not a reasonably prudent person would have had reason to know of the understatement or nonpayment.

(e) For purposes of this section, with respect to a failure to file a return or an omission of an item from the return, "attributable to one spouse" may be determined by whether a spouse rendered substantial service as an operator of a marine terminal, a pipeline, or a refinery engaged in activities subject to fees under this part to which the understatement is attributable. If neither spouse rendered substantial services as an operator, then the attribution of applicable items of understatement shall be treated as community property. An erroneous deduction or credit shall be attributable to the spouse who caused that deduction or credit to be entered on the return.

(f) Under procedures prescribed by the board, if, taking into account all the facts and circumstances, it is inequitable to hold the other spouse liable for any unpaid fee or any deficiency (or any portion of either) attributable to any item for which relief is not available under subdivision (a), the board may relieve the other spouse of that liability.

(g) For purposes of this section, registered domestic partners, as defined in Section 297 of the Family Code, have the same rights, protections, and benefits as provided by this section, and are subject to the same responsibilities, obligations, and duties as imposed by this section, as are granted to and imposed upon spouses.

(h) The relief provided by this section shall apply retroactively to liabilities arising prior to the effective date of this section.

SEC. 54. Section 50112.6 is added to the Revenue and Taxation Code, to read:

50112.6. (a) Under regulations prescribed by the board, if:

(1) A fee liability under this part was understated by a failure to file a return required to be filed under this part, by the omission of an amount properly includable therein, or by erroneous deductions or credits claimed

on a return, and the understatement of the fee liability is attributable to one spouse; or any amount of the fee reported on a return was unpaid and the nonpayment of the reported fee liability is attributable to one spouse.

(2) The other spouse establishes that he or she did not know of, and had no reason to know of, that understatement or nonpayment.

(3) Taking into account whether or not the other spouse significantly benefited directly or indirectly from the understatement or the nonpayment and taking into account all other facts and circumstances, it is inequitable to hold the other spouse liable for the deficiency in the fee attributable to that understatement or nonpayment, then the other spouse shall be relieved of liability for the fee (including interest, penalties, and other amounts) to the extent that the liability is attributable to that understatement or nonpayment of the fee.

(b) For purposes of this section, the determination of the spouse to whom items of understatement or nonpayment are attributable shall be made without regard to community property laws.

(c) This section shall apply to all calendar quarters subject to the provisions of this part, but shall not apply to any calendar quarter that is more than five years from the final date on the board-issued determination, five years from the return due date for nonpayment on a return, or one year from the first contact with the spouse making a claim under this section; or that has been closed by res judicata, whichever is later.

(d) For purposes of paragraph (2) of subdivision (a), "reason to know" means whether or not a reasonably prudent person would have had reason to know of the understatement or nonpayment.

(e) For purposes of this section, with respect to a failure to file a return or an omission of an item from the return, "attributable to one spouse" may be determined by whether a spouse rendered substantial service as an owner of an underground storage tank containing petroleum that is subject to fees imposed by this part to which the understatement is attributable. If neither spouse rendered substantial services as an owner, then the attribution of applicable items of understatement shall be treated as community property. An erroneous deduction or credit shall be attributable to the spouse who caused that deduction or credit to be entered on the return.

(f) Under procedures prescribed by the board, if, taking into account all the facts and circumstances, it is inequitable to hold the other spouse liable for any unpaid tax or any deficiency (or any portion of either) attributable to any item for which relief is not available under subdivision (a), the board may relieve the other spouse of that liability.

(g) For purposes of this section, registered domestic partners, as defined in Section 297 of the Family Code, have the same rights, protections, and benefits as provided by this section, and are subject to the same responsibilities, obligations, and duties as imposed by this section, as are granted to and imposed upon spouses.

(h) The relief provided by this section shall apply retroactively to liabilities arising prior to the effective date of this section.

SEC. 55. Section 55045.1 is added to the Revenue and Taxation Code, to read:

55045.1. (a) Under regulations prescribed by the board, if:

(1) A tax or fee liability under this part was understated by a failure to file a return required to be filed under this part, by the omission of an amount properly includable therein, or by erroneous deductions or credits claimed on a return, and the understatement of tax or fee liability is attributable to one spouse; or any amount of the tax or fee reported on a return was unpaid and the nonpayment of the reported tax or fee liability is attributable to one spouse, or any amount of the fee due on a notice of determination or similar billing document used for collection of the fee was unpaid and the nonpayment of the fee liability is attributable to one spouse.

(2) The other spouse establishes that he or she did not know of, and had no reason to know of, that understatement or nonpayment.

(3) Taking into account whether or not the other spouse significantly benefited directly or indirectly from the understatement or the nonpayment and taking into account all other facts and circumstances, it is inequitable to hold the other spouse liable for the deficiency in the tax or fee attributable to that understatement or nonpayment, then the other spouse shall be relieved of liability for the tax or fee (including interest, penalties, and other amounts) to the extent that the liability is attributable to that understatement or nonpayment of tax or fee.

(b) For purposes of this section, the determination of the spouse to whom items of understatement or nonpayment are attributable shall be made without regard to community property laws.

(c) This section shall apply to all calendar months, quarters, or years subject to the provisions of this part, but shall not apply to any calendar month, quarter, or year that is more than five years from the final date on the board-issued determination or similar billing document for collection of the fee, five years from the return due date for nonpayment on a return, or one year from the first contact with the spouse making a claim under this section; or that has been closed by res judicata, whichever is later.

(d) For purposes of paragraph (2) of subdivision (a), "reason to know" means whether or not a reasonably prudent person would have had reason to know of the understatement or nonpayment.

(e) For purposes of this section, with respect to a failure to file a return or an omission of an item from the return, "attributable to one spouse" may be determined by whether a spouse rendered substantial service as a taxpayer or feepayer engaged in an activity or transaction that is subject to a tax or fee administered under this part to which the understatement or nonpayment is attributable. If neither spouse rendered substantial services as a taxpayer or feepayer, then the attribution of applicable items of understatement or nonpayment shall be treated as community property. An erroneous deduction or credit shall be attributable to the spouse who caused that deduction or credit to be entered on the return.

(f) Under procedures prescribed by the board, if, taking into account all the facts and circumstances, it is inequitable to hold the other spouse liable for any unpaid tax or fee or any deficiency (or any portion of either) attributable to any item for which relief is not available under subdivision (a), the board may relieve the other spouse of that liability.

(g) For purposes of this section, registered domestic partners, as defined in Section 297 of the Family Code, have the same rights, protections, and benefits as provided by this section, and are subject to the same responsibilities, obligations, and duties as imposed by this section, as are granted to and imposed upon spouses.

(h) The relief provided by this section shall apply retroactively to liabilities arising prior to the effective date of this section.

SEC. 56. Section 60210.5 is added to the Revenue and Taxation Code, to read:

60210.5. (a) Under regulations prescribed by the board, if:

(1) A tax liability under this part was understated by a failure to file a return required to be filed under this part, by the omission of an amount properly includable therein, or by erroneous deductions or credits claimed on a return, and the understatement of tax liability is attributable to one spouse; or any amount of the tax reported on a return was unpaid and the nonpayment of the reported tax liability is attributable to one spouse.

(2) The other spouse establishes that he or she did not know of, and had no reason to know of, that understatement or nonpayment.

(3) Taking into account whether or not the other spouse significantly benefited directly or indirectly from the understatement or the nonpayment and taking into account all other facts and circumstances, it is inequitable to hold the other spouse liable for the deficiency in tax attributable to that understatement or nonpayment, then the other spouse shall be relieved of liability for tax (including interest, penalties, and

other amounts) to the extent that the liability is attributable to that understatement or nonpayment of tax.

(b) For purposes of this section, the determination of the spouse to whom items of understatement or nonpayment are attributable shall be made without regard to community property laws.

(c) This section shall apply to all calendar months or quarters subject to the provisions of this part, but shall not apply to any calendar month or quarter that is more than five years from the final date on the board-issued determination, five years from the return due date for nonpayment on a return, or one year from the first contact with the spouse making a claim under this section; or that has been closed by res judicata, whichever is later.

(d) For purposes of paragraph (2) of subdivision (a), "reason to know" means whether or not a reasonably prudent person would have had reason to know of the understatement or nonpayment.

(e) For purposes of this section, with respect to a failure to file a return or an omission of an item from the return, "attributable to one spouse" may be determined by whether a spouse rendered substantial service as a supplier entering, removing, or selling taxable diesel fuel, an interstate user, an exempt bus operator, or a highway vehicle operator using taxable diesel fuel to which the understatement is attributable. If neither spouse rendered substantial services as a supplier, interstate user, exempt bus operator, or highway vehicle operator, then the attribution of applicable items of understatement shall be treated as community property. An erroneous deduction or credit shall be attributable to the spouse who caused that deduction or credit to be entered on the return.

(f) Under procedures prescribed by the board, if, taking into account all the facts and circumstances, it is inequitable to hold the other spouse liable for any unpaid tax or any deficiency (or any portion of either) attributable to any item for which relief is not available under subdivision (a), the board may relieve the other spouse of that liability.

(g) For purposes of this section, registered domestic partners, as defined in Section 297 of the Family Code, have the same rights, protections, and benefits as provided by this section, and are subject to the same responsibilities, obligations, and duties as imposed by this section, as are granted to and imposed upon spouses.

(h) The relief provided by this section shall apply retroactively to liabilities arising prior to the effective date of this section.

SEC. 57. Section 60653 of the Revenue and Taxation Code is amended to read:

60653. The Controller shall make the transfers to the Highway Users Tax Account in the Transportation Tax Fund pursuant to Section 60652

at the same time as the transfers of moneys received under the Motor Vehicle Fuel Tax Law are made.

SEC. 58. (a) The amendments made to Section 18533 of the Revenue and Taxation Code by Section 38 of this act shall apply to requests for relief filed on or after January 1, 2008, and before January 1, 2009.

(b) The amendments made to Section 18533 of the Revenue and Taxation Code by Section 39 of this act shall apply to requests for relief filed on or after January 1, 2009.

SEC. 59. The amendments made to Section 41031 of the Revenue and Taxation Code by Section 47 of this act shall apply as follows: The surcharge rate determined by the Department of General Services and fixed by the State Board of Equalization that would otherwise be effective with respect to charges made for intrastate telephone communication services for the period beginning on November 1, 2007, through October 31, 2008, inclusive, shall instead apply to charges made for intrastate telephone communication services for the period beginning on November 1, 2007, through December 31, 2008, inclusive.

SEC. 60. The Legislature finds and declares that the enactment of this act and the retroactive application provided by Sections 33, 35, 37, 42 to 45, inclusive, and 49 to 56, inclusive, of this act are necessary for the public purpose of providing equitable relief to innocent spouses or registered domestic partners who are liable for a tax or fee, even though the spouse or registered domestic partner did not know of, and had no reason to know of, any understatement or nonpayment of the tax fee, and by ensuring that the collection of a tax or fee liability is fair and correct.

SEC. 61. Notwithstanding Section 2230 of the Revenue and Taxation Code, no appropriation is made by this act and the state shall not reimburse any local agency for any sales and use tax revenues lost by it under this act.

CHAPTER 343

An act to amend Section 5120 of the Corporations Code, to amend Section 18915 of the Education Code, to amend Sections 1780, 4216, 6503.5, 6503.7, 8855, 12168.7, 15432, 24051, 24304.2, 26292.1, 26298.2, 26299.041, 26907, 27001, 61062, 65358, 66442, and 66472.1 of, and to repeal Section 65036.6 of, to repeal Chapter 2 (commencing with Section 55850) of Part 3 of Division 2 of Title 5 of, and to repeal Title 7.91 (commencing with Section 68056) of, the Government Code, to amend Sections 33031 and 40980 of, to add Section 20008 to, to repeal Section 20111 of, to repeal Article 2 (commencing with Section 20025) of, and

Article 2.6 (commencing with Section 20050) of, Chapter 1 of Part 1 of Division 14 of, to repeal Chapter 2 (commencing with Section 20300) of Part 1 of Division 14 of, and to repeal and add Sections 20109 and 20110 of, the Health and Safety Code, to repeal Sections 35104, 35107, 35122, 35138, and 35160 of, and to repeal and add Sections 35123, 35124, and 35130 of, the Public Resources Code, to amend Sections 70223, 98290, 100250, 102350, 130350, 130401, 131102, 132301, 190300, and 240301 of the Public Utilities Code, to amend Section 95 of, and to repeal Sections 7262.5 and 7262.6 of, the Revenue and Taxation Code, and to amend Section 3110 of the Streets and Highways Code, relating to local government.

[Approved by Governor October 8, 2007. Filed with Secretary of State October 8, 2007.]

The people of the State of California do enact as follows:

SECTION 1. (a) This act shall be known and may be cited as the Local Government Omnibus Act of 2007.

(b) The Legislature finds and declares that Californians want their governments to be run efficiently and economically and that public officials should avoid waste and duplication whenever possible. The Legislature further finds and declares that it desires to control its own costs by reducing the number of separate bills. Therefore, it is the intent of the Legislature in enacting this act to combine several minor, noncontroversial statutory changes relating to local government into a single measure.

SEC. 2. Section 5120 of the Corporations Code is amended to read:

5120. (a) One or more persons may form a corporation under this part by executing and filing articles of incorporation.

(b) If initial directors are named in the articles, each director named in the articles shall sign and acknowledge the articles; if initial directors are not named in the articles, the articles shall be signed by one or more persons who thereupon are the incorporators of the corporation.

(c) The corporate existence begins upon the filing of the articles and continues perpetually, unless otherwise expressly provided by law or in the articles.

(d) At the time of filing pursuant to this section, a corporation shall furnish an additional copy of its articles to the Secretary of State who shall forward that copy to the Attorney General.

(e) If the corporation was created by the elected legislative body in order to exercise authority that may lawfully be delegated by the elected governing body to a private corporation or other entity, the corporation

shall furnish an additional copy of its articles to the Secretary of State, who shall forward the additional copy to the Controller.

SEC. 3. Section 18915 of the Education Code is amended to read:

18915. Meetings of the board are governed by the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code).

SEC. 4. Section 1780 of the Government Code is amended to read:

1780. (a) Notwithstanding any other provision of law, a vacancy in any elective office on the governing board of a special district, other than those specified in Section 1781, shall be filled pursuant to this section.

(b) The district shall notify the county elections official of the vacancy no later than 15 days after either the date on which the district board is notified of the vacancy or the effective date of the vacancy, whichever is later.

(c) The remaining members of the district board may fill the vacancy either by appointment pursuant to subdivision (d) or by calling an election pursuant to subdivision (e).

(d) (1) The remaining members of the district board shall make the appointment pursuant to this subdivision within 60 days after either the date on which the district board is notified of the vacancy or the effective date of the vacancy, whichever is later. The district shall post a notice of the vacancy in three or more conspicuous places in the district at least 15 days before the district board makes the appointment. The district shall notify the county elections official of the appointment no later than 15 days after the appointment.

(2) If the vacancy occurs in the first half of a term of office and at least 130 days prior to the next general district election, the person appointed to fill the vacancy shall hold office until the next general district election that is scheduled 130 or more days after the date the district board is notified of the vacancy, and thereafter until the person who is elected at that election to fill the vacancy has been qualified. The person elected to fill the vacancy shall hold office for the unexpired balance of the term of office.

(3) If the vacancy occurs in the first half of a term of office, but less than 130 days prior to the next general district election, or if the vacancy occurs in the second half of a term of office, the person appointed to fill the vacancy shall fill the balance of the unexpired term of office.

(e) (1) In lieu of making an appointment the remaining members of the board may within 60 days of the date the district board is notified of the vacancy or the effective date of the vacancy, whichever is later, call an election to fill the vacancy.

(2) The election called pursuant to this subdivision shall be held on the next established election date provided in Chapter 1 (commencing with Section 1000) of Division 1 of the Elections Code that is 130 or more days after the date the district board calls the election.

(f) (1) If the vacancy is not filled by the district board by appointment, or if the district board has not called for an election within 60 days of the date the district board is notified of the vacancy or the effective date of the vacancy, whichever is later, then the city council of the city in which the district is wholly located, or if the district is not wholly located within a city, the board of supervisors of the county representing the larger portion of the district area in which the election to fill the vacancy will be held, may appoint a person to fill the vacancy within 90 days of the date the district board is notified of the vacancy or the effective date of the vacancy, whichever is later, or the city council or board of supervisors may order the district to call an election to fill the vacancy.

(2) The election called pursuant to this subdivision shall be held on the next established election date provided in Chapter 1 (commencing with Section 1000) of Division 1 of the Elections Code that is 130 or more days after the date the city council or board of supervisors calls the election.

(g) (1) If within 90 days of the date the district board is notified of the vacancy or the effective date of the vacancy, whichever is later, the remaining members of the district board or the appropriate board of supervisors or city council have not filled the vacancy and no election has been called for, then the district board shall call an election to fill the vacancy.

(2) The election called pursuant to this subdivision shall be held on the next established election date provided in Chapter 1 (commencing with Section 1000) of Division 1 of the Elections Code that is 130 or more days after the date the district board calls the election.

(h) (1) Notwithstanding any other provision of this section, if the number of remaining members of the district board falls below a quorum, then at the request of the district secretary or a remaining member of the district board, the appropriate board of supervisors or the city council shall promptly appoint a person to fill the vacancy, or may call an election to fill the vacancy.

(2) The board of supervisors or the city council shall only fill enough vacancies by appointment or by election to provide the district board with a quorum.

(3) If the vacancy occurs in the first half of a term of office and at least 130 days prior to the next general district election, the person appointed to fill the vacancy shall hold the office until the next general district election that is scheduled 130 or more days after the date the

district board is notified of the vacancy, and thereafter until the person who is elected at that election to fill the vacancy has been qualified. The person elected to fill the vacancy shall hold office for the unexpired balance of the term of office.

(4) If the vacancy occurs in the first half of a term of office, but less than 130 days prior to the next general district election, or if the vacancy occurs in the second half of a term of office, the person appointed to fill the vacancy shall fill the balance of the unexpired term of office.

(5) The election called pursuant to this subdivision shall be held on the next established election date provided in Chapter 1 (commencing with Section 1000) of Division 1 of the Elections Code that is held 130 or more days after the date the city council or board of supervisors calls the election.

SEC. 5. Section 4216 of the Government Code is amended to read:

4216. As used in this article the following definitions apply:

(a) "Approximate location of subsurface installations" means a strip of land not more than 24 inches on either side of the exterior surface of the subsurface installation. "Approximate location" does not mean depth.

(b) "Excavation" means any operation in which earth, rock, or other material in the ground is moved, removed, or otherwise displaced by means of tools, equipment, or explosives in any of the following ways: grading, trenching, digging, ditching, drilling, augering, tunneling, scraping, cable or pipe plowing and driving, or any other way.

(c) Except as provided in Section 4216.8, "excavator" means any person, firm, contractor or subcontractor, owner, operator, utility, association, corporation, partnership, business trust, public agency, or other entity that, with their, or his or her, own employees or equipment performs any excavation.

(d) "Emergency" means a sudden, unexpected occurrence, involving a clear and imminent danger, demanding immediate action to prevent or mitigate loss of, or damage to, life, health, property, or essential public services. "Unexpected occurrence" includes, but is not limited to, fires, floods, earthquakes or other soil or geologic movements, riots, accidents, damage to a subsurface installation requiring immediate repair, or sabotage.

(e) "High priority subsurface installation" means high-pressure natural gas pipelines with normal operating pressures greater than 415kPA gauge (60psig), petroleum pipelines, pressurized sewage pipelines, high-voltage electric supply lines, conductors, or cables that have a potential to ground of greater than or equal to 60kv, or hazardous materials pipelines that are potentially hazardous to workers or the public if damaged.

(f) "Inquiry identification number" means the number that is provided by a regional notification center to every person who contacts the center

pursuant to Section 4216.2. The inquiry identification number shall remain valid for not more than 28 calendar days from the date of issuance, and after that date shall require regional notification center revalidation.

(g) "Local agency" means a city, county, city and county, school district, or special district.

(h) "Operator" means any person, corporation, partnership, business trust, public agency, or other entity that owns, operates, or maintains a subsurface installation. For purposes of Section 4216.1, an "operator" does not include an owner of real property where subsurface facilities are exclusively located if they are used exclusively to furnish services on that property and the subsurface facilities are under the operation and control of that owner.

(i) "Qualified person" means a person who completes a training program in accordance with the requirements of Title 8, California Code of Regulations, Section 1509, Injury Prevention Program, that meets the minimum training guidelines and practices of Common Ground Alliance current Best Practices.

(j) "Regional notification center" means a nonprofit association or other organization of operators of subsurface installations that provides advance warning of excavations or other work close to existing subsurface installations, for the purpose of protecting those installations from damage, removal, relocation, or repair.

(k) "State agency" means every state agency, department, division, bureau, board, or commission.

(*l*) "Subsurface installation" means any underground pipeline, conduit, duct, wire, or other structure, except nonpressurized sewerlines, nonpressurized storm drains, or other nonpressurized drain lines.

SEC. 6. Section 6503.5 of the Government Code is amended to read:

6503.5. Whenever a joint powers agreement provides for the creation of an agency or entity that is separate from the parties to the agreement and is responsible for the administration of the agreement, such agency or entity shall, within 30 days after the effective date of the agreement or amendment thereto, cause a notice of the agreement or amendment to be prepared and filed with the office of the Secretary of State. The agency or entity shall furnish an additional copy of the notice of the agreement or amendment to the Secretary of State, who shall forward the copy to the Controller. The notice shall contain:

(a) The name of each public agency that is a party to the agreement.

(b) The date that the agreement became effective.

(c) A statement of the purpose of the agreement or the power to be exercised.

(d) A description of the amendment or amendments made to the agreement, if any.

Notwithstanding any other provision of this chapter, any agency or entity administering a joint powers agreement or amendment to such an agreement, which agreement or amendment becomes effective on or after the effective date of this section, which fails to file the notice required by this section within 30 days after the effective date of the agreement or amendment, shall not thereafter, and until such filings are completed, issue any bonds or incur indebtedness of any kind.

SEC. 7. Section 6503.7 of the Government Code is amended to read:

6503.7. Within 90 days after the effective date of this section, any separate agency or entity constituted pursuant to a joint powers agreement entered into prior to the effective date of this section and responsible for the administration of the agreement shall cause a notice of the agreement to be prepared and filed with the office of the Secretary of State. The agency or entity shall also furnish an additional copy of the notice of the agreement to the Secretary of State who shall forward the copy to the Controller. The notice shall contain all the information required for notice given pursuant to Section 6503.5.

Notwithstanding any other provision of this chapter, any joint powers agency that is required and fails to file notice pursuant to this section within 90 days after the effective date of this section shall not, thereafter, and until such filings are completed, issue any bonds, incur any debts, liabilities or obligations of any kind, or in any other way exercise any of its powers.

For purposes of recovering the costs incurred in filing and processing the notices required to be filed pursuant to this section and Section 6503.5, the Secretary of State may establish a schedule of fees. Such fees shall be collected by the office of the Secretary of State at the time the notices are filed and shall not exceed the reasonably anticipated cost to the Secretary of State of performing the work to which the fees relate.

SEC. 7.5. Section 8855 of the Government Code is amended to read:

8855. (a) There is created the California Debt and Investment Advisory Commission, consisting of nine members, selected as follows:

(1) The Treasurer, or his or her designee.

(2) The Governor or the Director of Finance.

(3) The Controller, or his or her designee.

(4) Two local government finance officers appointed by the Treasurer, one each from among persons employed by a county and by a city or a city and county of this state, experienced in the issuance and sale of municipal bonds and nominated by associations affiliated with these agencies.

(5) Two Members of the Assembly appointed by the Speaker of the Assembly.

(6) Two Members of the Senate appointed by the Senate Committee on Rules.

(b) (1) The term of office of an appointed member is four years, but appointed members serve at the pleasure of the appointing power. In case of a vacancy for any cause, the appointing power shall make an appointment to become effective immediately for the unexpired term.

(2) Any legislators appointed to the commission shall meet with and participate in the activities of the commission to the extent that the participation is not incompatible with their respective positions as Members of the Legislature. For purposes of this chapter, the Members of the Legislature shall constitute a joint interim legislative committee on the subject of this chapter.

(c) The Treasurer shall serve as chairperson of the commission and shall preside at meetings of the commission.

(d) Appointed members of the commission shall not receive a salary, but shall be entitled to a per diem allowance of fifty dollars ($50) for each day's attendance at a meeting of the commission not to exceed three hundred dollars ($300) in any month, and reimbursement for expenses incurred in the performance of their duties under this chapter, including travel and other necessary expenses.

(e) The commission may adopt bylaws for the regulation of its affairs and the conduct of its business.

(f) The commission shall meet on the call of the chairperson, at the request of a majority of the members, or at the request of the Governor. A majority of all nonlegislative members of the commission constitutes a quorum for the transaction of business.

(g) The office of the Treasurer shall furnish all administrative and clerical assistance required by the commission.

(h) The commission shall do all of the following:

(1) Assist all state financing authorities and commissions in carrying out their responsibilities as prescribed by law, including assistance with respect to federal legislation pending in Congress.

(2) Upon request of any state or local government units, to assist them in the planning, preparation, marketing, and sale of new debt issues to reduce cost and to assist in protecting the issuer's credit.

(3) Collect, maintain, and provide comprehensive information on all state and all local debt authorization and issuance, and serve as a statistical clearinghouse for all state and local debt issues. This information shall be readily available upon request by any public official or any member of the public.

(4) Maintain contact with state and municipal bond issuers, underwriters, credit rating agencies, investors, and others to improve the market for state and local government debt issues.

(5) Undertake or commission studies on methods to reduce the costs and improve credit ratings of state and local issues.

(6) Recommend changes in state laws and local practices to improve the sale and servicing of state and local debts.

(7) Establish a continuing education program for local officials having direct or supervisory responsibility over municipal investments, and debt issuance. The commission shall undertake these and any other activities necessary to disclose investment and debt issuance practices and strategies that may be conducive for oversight purposes.

(8) Collect, maintain, and provide information on local agency investments of public funds for local agency investment.

(9) Publish a monthly newsletter describing and evaluating the operations of the commission during the preceding month.

(i) The city, county, or city and county investor of any public funds, no later than 60 days after the close of the second and fourth quarters of each calendar year, shall provide the quarterly reports required pursuant to Section 53646 and, no later than 60 days after the close of the second quarter of each calendar year and 60 days after the subsequent amendment thereto, provide the statement of investment policy required pursuant to Section 53646, to the commission by mail, postage prepaid, or by any other method approved by the commission. The commission shall collect these reports to further its educational responsibilities as described under subdivision (e). Nothing in this section shall be construed to create additional oversight responsibility for the commission or any of its members. Sole responsibility for control, oversight, and accountability of local investment decisions shall remain with local officials. The commission shall not be considered to have any fiduciary duty with respect to any local agency income report received under this subdivision. In addition, the commission shall not have any legal liability with respect to these investments.

(j) The commission, no later than May 1, 2006, shall report to the Legislature describing its activities since the inception of the local agency investment reporting program regarding the collection and maintenance of information on local agency investment reporting practices and how the commission uses that information to fulfill its statutory goals.

(k) The issuer of any proposed new debt issue of state or local government shall, no later than 30 days prior to the sale of any debt issue at public or private sale, give written notice of the proposed sale to the commission, by mail, postage prepaid, or by any other method approved by the commission. This subdivision shall also apply to any nonprofit public benefit corporation incorporated for the purpose of acquiring student loans. The notice shall include the proposed sale date, the name of the issuer, the type of debt issue, and the estimated principal amount

of the debt. Failure to give this notice shall not affect the validity of the sale.

(*l*) The issuer of any new debt issue of state or local government, not later than 45 days after the signing of the bond purchase contract in a negotiated or private financing, or after the acceptance of a bid in a competitive offering, shall submit a report of final sale to the commission by mail, postage prepaid, or by any other method approved by the commission. A copy of the final official statement for the issue shall accompany the report of final sale. If there is no official statement, the issuer shall provide each of the following documents, if they exist, along with the report of final sale:

(1) Other disclosure document.
(2) Indenture.
(3) Installment sales agreement.
(4) Loan agreement or promissory note.
(5) Bond purchase contract.
(6) Resolution authorizing the issue.
(7) Bond specimen.

The commission may require information to be submitted in the report of final sale that it considers appropriate. The issuer may redact confidential information contained in the documents if the redacted information is not information that is otherwise required to be reported to the commission.

SEC. 7.7. Section 12168.7 of the Government Code is amended to read:

12168.7. (a) The California Legislature hereby recognizes the need to adopt uniform statewide standards for the purpose of storing and recording permanent and nonpermanent documents in electronic media.

(b) In order to ensure that uniform statewide standards remain current and relevant, the Secretary of State, in consultation with the Department of General Services, shall approve and adopt appropriate standards established by the American National Standards Institute or the Association for Information and Image Management.

(c) The standards specified in subdivision (b) shall include a requirement that a trusted system be utilized. For this purpose and for purposes of Sections 25105, 26205, 26205.1, 26205.5, 26907, 27001, 27322.2, 34090.5, and 60203, Section 102235 of the Health and Safety Code, and Section 10851 of the Welfare and Institutions Code, "trusted system" means a combination of techniques, policies, and procedures for which there is no plausible scenario in which a document retrieved from or reproduced by the system could differ substantially from the document that is originally stored.

(d) In order to develop statewide standards as expeditiously as possible, and until the time that statewide standards are adopted pursuant to subdivision (b), state officials shall ensure that microfilming, electronic data imaging, and photographic reproduction are done in compliance with the minimum standards or guidelines, or both, as recommended by the American National Standards Institute or the Association for Information and Image Management for recording of permanent records or nonpermanent records.

SEC. 8. Section 15432 of the Government Code is amended to read:

15432. As used in this part, the following words and terms shall have the following meanings, unless the context clearly indicates or requires another or different meaning or intent:

(a) "Act" means the California Health Facilities Financing Authority Act.

(b) "Authority" means the California Health Facilities Financing Authority created by this part or any board, body, commission, department, or officer succeeding to the principal functions thereof or to which the powers conferred upon the authority by this part shall be given by law.

(c) "Cost," as applied to a project or portion of a project financed under this part, means and includes all or any part of the cost of construction and acquisition of all lands, structures, real or personal property, rights, rights-of-way, franchises, easements, and interests acquired or used for a project, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which those buildings or structures may be moved, the cost of all machinery and equipment, financing charges, interest prior to, during, and for a period not to exceed the later of one year or one year following completion of construction, as determined by the authority, the cost of insurance during construction, the cost of funding or financing noncapital expenses, reserves for principal and interest and for extensions, enlargements, additions, replacements, renovations and improvements, the cost of engineering, service contracts, reasonable financial and legal services, plans, specifications, studies, surveys, estimates, administrative expenses, and other expenses of funding or financing, that are necessary or incident to determining the feasibility of constructing any project, or that are incident to the construction, acquisition, or financing of any project.

(d) "Health facility" means any facility, place, or building that is licensed, accredited, or certified and organized, maintained, and operated for the diagnosis, care, prevention, and treatment of human illness, or physical, mental, or developmental disability, including convalescence and rehabilitation and including care during and after pregnancy, or for

any one or more of these purposes, for one or more persons, and includes, but is not limited to, all of the following types:

(1) A general acute care hospital that is a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical staff that provides 24-hour inpatient care, including the following basic services: medical, nursing, surgical, anesthesia, laboratory, radiology, pharmacy, and dietary services.

(2) An acute psychiatric hospital that is a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical staff that provides 24-hour inpatient care for mentally disordered, incompetent, or other patients referred to in Division 5 (commencing with Section 5000) or Division 6 (commencing with Section 6000) of the Welfare and Institutions Code, including the following basic services: medical, nursing, rehabilitative, pharmacy, and dietary services.

(3) A skilled nursing facility that is a health facility that provides the following basic services: skilled nursing care and supportive care to patients whose primary need is for availability or skilled nursing care on an extended basis.

(4) An intermediate care facility that is a health facility that provides the following basic services: inpatient care to ambulatory or semiambulatory patients who have recurring need for skilled nursing supervision and need supportive care, but who do not require availability or continuous skilled nursing care.

(5) A special health care facility that is a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical or dental staff that provides inpatient or outpatient, acute or nonacute care, including, but not limited to, medical, nursing, rehabilitation, dental, or maternity.

(6) A clinic that is operated by a tax-exempt nonprofit corporation that is licensed pursuant to Section 1204 or 1204.1 of the Health and Safety Code or a clinic exempt from licensure pursuant to subdivision (b) or (c) of Section 1206 of the Health and Safety Code.

(7) An adult day health center that is a facility, as defined under subdivision (b) of Section 1570.7 of the Health and Safety Code, that provides adult day health care, as defined under subdivision (a) of Section 1570.7 of the Health and Safety Code.

(8) Any facility owned or operated by a local jurisdiction for the provision of county health services.

(9) A multilevel facility is an institutional arrangement where a residential facility for the elderly is operated as a part of, or in conjunction with, an intermediate care facility, a skilled nursing facility, or a general

acute care hospital. "Elderly," for the purposes of this paragraph, means a person 62 years of age or older.

(10) A child day care facility operated in conjunction with a health facility. A child day care facility is a facility, as defined in Section 1596.750 of the Health and Safety Code. For purposes of this paragraph, "child" means a minor from birth to 18 years of age.

(11) An intermediate care facility/developmentally disabled habilitative that is a health facility, as defined under subdivision (e) of Section 1250 of the Health and Safety Code.

(12) An intermediate care facility/developmentally disabled-nursing that is a health facility, as defined under subdivision (h) of Section 1250 of the Health and Safety Code.

(13) A community care facility that is a facility, as defined under subdivision (a) of Section 1502 of the Health and Safety Code, that provides care, habilitation, rehabilitation, or treatment services to developmentally disabled or mentally impaired persons.

(14) A nonprofit community care facility, as defined in subdivision (a) of Section 1502 of the Health and Safety Code, other than a facility that, as defined in that subdivision, is a residential facility for the elderly, a foster family agency, a foster family home, a full service adoption agency, or a noncustodial adoption agency.

(15) A nonprofit accredited community work-activity program, as specified in subdivision (e) of Section 4851 and Section 4856 of the Welfare and Institutions Code.

(16) A community mental health center, as defined in paragraph (3) of subdivision (b) of Section 5667 of the Welfare and Institutions Code.

(17) A nonprofit speech and hearing center, as defined in Section 1201.5 of the Health and Safety Code.

(18) A blood bank, as defined in Section 1600.2 of the Health and Safety Code, licensed pursuant to Section 1602.5 of the Health and Safety Code, and exempt from federal income taxation pursuant to Section 501(c)(3) of the Internal Revenue Code.

"Health facility" includes a clinic that is described in subdivision (*l*) of Section 1206 of the Health and Safety Code.

"Health facility" includes the following facilities, if the facility is operated in conjunction with one or more of the facilities specified in paragraphs (1) to (18), inclusive, of this subdivision: a laboratory, laundry, or nurses or interns residence, housing for staff or employees and their families or patients or relatives of patients, a physicians' facility, an administration building, a research facility, a maintenance, storage, or utility facility, all structures or facilities related to any of the foregoing facilities or required or useful for the operation of a health facility and the necessary and usual attendant and related facilities and equipment,

and parking and supportive service facilities or structures required or useful for the orderly conduct of the health facility.

"Health facility" does not include any institution, place, or building used or to be used primarily for sectarian instruction or study or as a place for devotional activities or religious worship.

(e) "Participating health institution" means a city, city and county, or county, a district hospital, or a private nonprofit corporation or association authorized by the laws of this state to provide or operate a health facility and that, pursuant to the provisions of this part, undertakes the financing or refinancing of the construction or acquisition of a project or of working capital as provided in this part. "Participating health institution" also includes, for purposes of the California Health Facilities Revenue Bonds (UCSF-Stanford Health Care) 1998 Series A, the Regents of the University of California.

(f) "Project" means construction, expansion, remodeling, renovation, furnishing, or equipping, or funding, financing, or refinancing of a health facility or acquisition of a health facility to be financed or refinanced with funds provided in whole or in part pursuant to this part. "Project" may include reimbursement for the costs of construction, expansion, remodeling, renovation, furnishing, or equipping, or funding, financing, or refinancing of a health facility or acquisition of a health facility. "Project" may include any combination of one or more of the foregoing undertaken jointly by any participating health institution with one or more other participating health institutions.

(g) "Revenue bond" means any bond, warrant, note, lease, or installment sale obligation that is evidenced by a certificate of participation or other evidence of indebtedness issued by the authority.

(h) "Working capital" means moneys to be used by, or on behalf of, a participating health institution to pay or prepay maintenance or operation expenses or any other costs that would be treated as an expense item, under generally accepted accounting principles, in connection with the ownership or operation of a health facility, including, but not limited to, reserves for maintenance or operation expenses, interest for not to exceed one year on any loan for working capital made pursuant to this part, and reserves for debt service with respect to, and any costs necessary or incidental to, that financing.

SEC. 8.5. Section 24051 of the Government Code is amended to read:

24051. (a) On or before July 10th in each year, or at any other interval designated by the board of supervisors, each county officer or person in charge of any office, department, service, or institution of the county, and the executive head of each special district whose affairs and funds are under the supervision and control of the board of supervisors

or for which the board is ex officio the governing body shall file with the county clerk, or with the county auditor, according to the procedure prescribed by the board, an inventory under oath, showing in detail all county property in his or her possession or in his or her charge at the close of business on the preceding June 30th.

(b) By ordinance the board of supervisors may prescribe an annual or any other period, provided that the period shall not be in excess of three years, for preparation of the inventory and a correspondingly different date for its filing, and may prescribe the manner and form in which the inventory shall be compiled. The inventories shall be kept of record by the county clerk or auditor for at least five years. Any inventory which has been on file for five years or more may be destroyed on order of the board of supervisors or may be destroyed at any time after the document has been reproduced in accordance with Section 26205.1.

(c) A true copy of the inventory shall be delivered by the person who made it to his or her successor in office, who shall receipt for it. The receipt shall be filed with the county clerk or county auditor.

SEC. 9. Section 24304.2 of the Government Code is amended to read:

24304.2. Notwithstanding Section 24300, in Mendocino County, Sonoma County, and Tulare County, the board of supervisors, by ordinance, may consolidate the duties of the offices of Auditor-Controller and Treasurer-Tax Collector into the elected office of Auditor-Controller-Treasurer-Tax Collector.

SEC. 9.1. Section 26292.1 of the Government Code is amended to read:

26292.1. A retail transactions and use tax ordinance applicable in the incorporated and unincorporated territory of the county may be adopted by the agency in accordance with Section 26292.5 and Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code, if the ordinance is adopted by a two-thirds vote of the board of directors of the agency and if two-thirds of the electors voting on the measure vote to approve its imposition at a special election called for that purpose by the agency. The tax ordinance shall take effect at the close of the polls on the day of the election at which the proposition is adopted. The initial collection of the transactions and use tax shall take place in accordance with Section 26292.4.

SEC. 9.2. Section 26298.2 of the Government Code is amended to read:

26298.2. (a) A retail transactions and use tax ordinance applicable in the incorporated and unincorporated territory of the county may be adopted by the commission in accordance with Section 26298.8 and Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and

Taxation Code, if the ordinance is adopted by a two-thirds vote of the commission and if two-thirds of the electors voting on the measure vote to approve its imposition at an election. This election may be a special election called for that purpose by the commission or, if the commission so determines, shall be consolidated with a regular election.

(b) In addition to the authorization of subdivision (a), a retail transactions and use tax ordinance applicable in the incorporated and unincorporated territory of the county may be adopted by the commission in accordance with the requirements of subdivision (a), except that, at the option of the commission, the ordinance may be required to be approved by two-thirds of the electors voting on the measure.

SEC. 9.3. Section 26299.041 of the Government Code is amended to read:

26299.041. (a) A retail transactions and use tax ordinance applicable in the incorporated and unincorporated territory of a county may be imposed by the agency in accordance with this chapter and Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code, if the tax ordinance is adopted by a two-thirds vote of the agency and imposition of the tax is subsequently approved by two-thirds of the electors voting on the measure at a special election called for that purpose by the board of supervisors, at the request of the agency, and a county regional justice facilities master plan is adopted pursuant to Section 26299.009.

(b) In addition to the authorization of subdivision (a), a retail transactions and use tax ordinance applicable in the incorporated and unincorporated territory of a county may be imposed by the agency in accordance with the requirements of subdivision (a), except that, at the option of the agency, the ordinance may be required to be approved by two-thirds of the electors voting on the measure.

(c) A retail transactions and use tax approved by the electors pursuant to this chapter shall remain in effect for not longer than 30 years, or any lesser period of time specified in the tax ordinance. The tax may be continued in effect, or reimposed, by a tax ordinance adopted by a two-thirds vote of the agency and the reimposition of the tax is approved by either a majority or two-thirds of the electors, whichever was required for the initial approval.

(d) The special elections required by subdivisions (a), (b), and (c) for the initial imposition and reimposition, respectively, of a retail transactions and use tax may be consolidated, if the agency so determines, with a regular election.

SEC. 9.4. Section 26907 of the Government Code is amended to read:

26907. (a) Notwithstanding Section 26201, 26202, or 26205, the auditor or ex officio auditor may destroy any county, school, or special district claim, warrant, or any other paper issued as a warrant voucher that is more than five years old, or at any time after the document has been photographed, microphotographed, reproduced by electronically recorded video images on magnetic surfaces, or recorded on optical disk or reproduced on any other medium that does not permit additions, deletions, or changes to the original document and is produced in compliance with Section 12168.7 for recording of permanent records or nonpermanent records if the copy is kept or maintained for five years from the date of the document. A duplicate copy of any record reproduced in compliance with Section 12168.7 for recording of permanent or nonpermanent records, whichever applies, shall be deemed an original.

(b) The auditor may make a photographic record of an index or warrant register and may provide for the destruction of the index or warrant register. Any index or warrant register that is over five years old may be destroyed without being photographically or microphotographically reproduced.

SEC. 9.5. Section 27001 of the Government Code is amended to read:

27001. The treasurer shall file and keep the certificates of the auditor delivered to him or her when money is paid into the treasury. Notwithstanding Sections 26201, 26202, and 26205, the treasurer may destroy any certificate pursuant to this section under either of the following circumstances:

(a) The certificate has been filed for more than five years.

(b) The certificate has been filed for more than one year, and all of the following conditions are complied with:

(1) The record, paper, or document is photographed, microphotographed, reproduced by electronically recorded video images on magnetic surfaces, or recorded on optical disk or reproduced on any other medium that does not permit additions, deletions, or changes to the original document and is produced in compliance with Section 12168.7 for recording of permanent records or nonpermanent records if the copy is kept or maintained for five years from the date of the document.

(2) The device used to reproduce the record, paper, or document on film or any other medium is one that accurately reproduces the original thereof in all details. A duplicate copy of any record reproduced in compliance with Section 12168.7 for recording of permanent or nonpermanent records, whichever applies, shall be deemed an original.

(3) The photographs, microphotographs, or other reproductions on film or any other medium are placed in conveniently accessible files and provision is made for preserving, examining, and using the same.

(4) The record, paper, or document is reproduced and preserved utilizing other information technology.

SEC. 9.6. Chapter 2 (commencing with Section 55850) of Part 3 of Division 2 of Title 5 of the Government Code is repealed.

SEC. 10. Section 61062 of the Government Code is amended to read:

61062. (a) When acquiring, improving, or using any real property, a district shall comply with Article 5 (commencing with Section 53090) of Chapter 1 of Part 1 of Division 2 of Title 5, and Article 7 (commencing with Section 65400) of Chapter 1 of Division 1 of Title 7.

(b) When disposing of surplus land, a district shall comply with Article 8 (commencing with Section 54220) of Chapter 5 of Part 1 of Division 2 of Title 5.

SEC. 10.5. Section 65036.6 of the Government Code is repealed.

SEC. 11. Section 65358 of the Government Code is amended to read:

65358. (a) If it deems it to be in the public interest, the legislative body may amend all or part of an adopted general plan. An amendment to the general plan shall be initiated in the manner specified by the legislative body. Notwithstanding Section 66016, a legislative body that permits persons to request an amendment of the general plan may require that an amount equal to the estimated cost of preparing the amendment be deposited with the planning agency prior to the preparation of the amendment.

(b) Except as otherwise provided in subdivision (c) or (d), no mandatory element of a general plan shall be amended more frequently than four times during any calendar year. Subject to that limitation, an amendment may be made at any time, as determined by the legislative body. Each amendment may include more than one change to the general plan.

(c) The limitation on the frequency of amendments to a general plan contained in subdivision (b) does not apply to amendments of the general plan requested and necessary for a single development of residential units, at least 25 percent of which will be occupied by or available to persons and families of low or moderate income, as defined by Section 50093 of the Health and Safety Code. The specified percentage of low- or moderate-income housing may be developed on the same site as the other residential units proposed for development, or on another site or sites encompassed by the general plan, in which case the combined total number of residential units shall be considered a single development proposal for purposes of this section.

(d) This section does not apply to the adoption of any element of a general plan or to the amendment of any element of a general plan in order to comply with any of the following:

(1) A court decision made pursuant to Article 14 (commencing with Section 65750).

(2) Subdivision (b) of Section 65302.3.

(3) Subdivision (b) of Section 30500 of the Public Resources Code.

SEC. 12. Section 66442 of the Government Code is amended to read:

66442. (a) If a subdivision for which a final map is required lies within an unincorporated area, a certificate or statement by the county surveyor is required. If a subdivision lies within a city, a certificate or statement by the city engineer or city surveyor is required. The appropriate official shall sign, date, and, below or immediately adjacent to the signature, indicate his or her registration or license number with expiration date and the stamp of his or her seal, state that:

(1) He or she has examined the map.

(2) The subdivision as shown is substantially the same as it appeared on the tentative map, and any approved alterations thereof.

(3) All provisions of this chapter and of any local ordinances applicable at the time of approval of the tentative map have been complied with.

(4) He or she is satisfied that the map is technically correct.

(b) City or county engineers registered as civil engineers after January 1, 1982, shall only be qualified to certify the statements of paragraphs (1), (2), and (3) of subdivision (a). The statement specified in paragraph (4) shall only be certified by a person authorized to practice land surveying pursuant to the Professional Land Surveyors' Act (Chapter 15 (commencing with Section 8700) of Division 3 of the Business and Professions Code) or a person registered as a civil engineer prior to January 1, 1982, pursuant to the Professional Engineers' Act (Chapter 7 (commencing with Section 6700) of Division 3 of the Business and Professions Code). The county surveyor, the city surveyor, or the city engineer, as the case may be, or other public official or employee qualified and authorized to perform the functions of one of those officials, shall complete and file with his or her legislative body his or her certificate or statement, as required by this section, within 20 days from the time the final map is submitted to him or her by the subdivider for approval.

(c) As used in this section, "certificate," "certify," and "certified" shall have the same meaning as provided in Sections 6735.5 and 8770.6 of the Business and Professions Code.

SEC. 13. Section 66472.1 of the Government Code is amended to read:

66472.1. In addition to the amendments authorized by Section 66469, after a final map or parcel map is filed in the office of the county recorder, the recorded final map may be modified by a certificate of correction or an amending map, if authorized by local ordinance, if the local agency finds that there are changes in circumstances that make any or all of the conditions of the map no longer appropriate or necessary and that the modifications do not impose any additional burden on the fee owners of the real property, and if the modifications do not alter any right, title, or interest in the real property reflected on the recorded map, and the local agency finds that the map as modified conforms to Section 66474. Any modification shall be set for public hearing as provided for in Section 66451.3. The local agency shall confine the hearing to consideration of, and action on, the proposed modification.

SEC. 13.5. Title 7.91 (commencing with Section 68056) of the Government Code is repealed.

SEC. 14. Section 20008 is added to the Health and Safety Code, to read:

20008. Any district in existence on January 1, 2008, in an unincorporated town may protect and safeguard life and property, and may equip and maintain a police department, including purchasing and maintaining ambulances, and otherwise securing police protection.

SEC. 15. Article 2 (commencing with Section 20025) of Chapter 1 of Part 1 of Division 14 of the Health and Safety Code is repealed.

SEC. 15.1. Article 2.6 (commencing with Section 20050) of Chapter 1 of Part 1 of Division 14 of the Health and Safety Code is repealed.

SEC. 15.2. Section 20109 of the Health and Safety Code is repealed.

SEC. 15.3. Section 20109 is added to the Health and Safety Code, to read:

20109. The auditor of each county in which a district is located shall allocate to the district, its share of property tax revenue pursuant to Chapter 6 (commencing with Section 95) of Part 0.5 of Division 1 of the Revenue and Taxation Code.

SEC. 15.4. Section 20110 of the Health and Safety Code is repealed.

SEC. 15.5. Section 20110 is added to the Health and Safety Code, to read:

20110. A district may levy special taxes services pursuant to the following:

(a) Article 3.5 (commencing with Section 50075) of Chapter 1 of Part 1 of Division 1 of the Government Code.

(b) Article 16 (commencing with Section 53970) of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code.

SEC. 15.6. Section 20111 of the Health and Safety Code is repealed.

SEC. 15.7. Chapter 2 (commencing with Section 20300) of Part 1 of Division 14 of the Health and Safety Code is repealed.

SEC. 16. Section 33031 of the Health and Safety Code is amended to read:

33031. (a) This subdivision describes physical conditions that cause blight:

(1) Buildings in which it is unsafe or unhealthy for persons to live or work. These conditions may be caused by serious building code violations, serious dilapidation and deterioration caused by long-term neglect, construction that is vulnerable to serious damage from seismic or geologic hazards, and faulty or inadequate water or sewer utilities.

(2) Conditions that prevent or substantially hinder the viable use or capacity of buildings or lots. These conditions may be caused by buildings of substandard, defective, or obsolete design or construction given the present general plan, zoning, or other development standards.

(3) Adjacent or nearby incompatible land uses that prevent the development of those parcels or other portions of the project area.

(4) The existence of subdivided lots that are in multiple ownership and whose physical development has been impaired by their irregular shapes and inadequate sizes, given present general plan and zoning standards and present market conditions.

(b) This subdivision describes economic conditions that cause blight:

(1) Depreciated or stagnant property values.

(2) Impaired property values, due in significant part, to hazardous wastes on property where the agency may be eligible to use its authority as specified in Article 12.5 (commencing with Section 33459).

(3) Abnormally high business vacancies, abnormally low lease rates, or an abnormally high number of abandoned buildings.

(4) A serious lack of necessary commercial facilities that are normally found in neighborhoods, including grocery stores, drug stores, and banks and other lending institutions.

(5) Serious residential overcrowding that has resulted in significant public health or safety problems. As used in this paragraph, "overcrowding" means exceeding the standard referenced in Article 5 (commencing with Section 32) of Chapter 1 of Title 25 of the California Code of Regulations.

(6) An excess of bars, liquor stores, or adult-oriented businesses that has resulted in significant public health, safety, or welfare problems.

(7) A high crime rate that constitutes a serious threat to the public safety and welfare.

SEC. 17. Section 40980 of the Health and Safety Code is amended to read:

40980. (a) The Sacramento district shall, at a minimum, be governed by a district board composed of the Board of Supervisors of the County of Sacramento.

(b) If the County of Placer submits a resolution of inclusion, pursuant to Section 40963, one or more elected officials from that county shall be included on the Sacramento district board, pursuant to agreement between that county and the Sacramento district board.

(c) (1) The membership of the Sacramento district board shall include one or more members who are mayors or city council members, or both, and one or more members who are county supervisors.

(2) The number of those members and their composition shall be determined jointly by the counties and cities within the district, and shall be approved by a majority of the counties, and by a majority of the cities that contain a majority of the population in the incorporated area of the district.

(d) The governing board shall reflect, to the extent feasible and practicable, the geographic diversity of the district and the variation of population between the cities in the district.

(e) (1) Except as provided in paragraph (2), the members of the governing board who are mayors or city council members shall be selected by the city council of the city that they represent. The members of the governing board who are county supervisors shall be selected by the county if the district only contains one county or a majority of counties within the district if the district contains more than one county.

(2) The city selection committee shall be convened to select a member of the governing board from nominees who are mayors or city council members only if there is to be a change in a board member designated to represent more than one city, and only if more than one of those cities submits nominees for that board member position.

(3) When selecting a member of the governing board, a city council and the city selection committee may also appoint a mayor or another city council member as an alternate to serve and vote in place of the member who is absent or is disqualified from participating.

(f) (1) If the district fails to comply with subdivision (c), one-third of the members of the governing board shall be mayors or city council members, and two-thirds shall be county supervisors. The number of those members shall be determined as provided in paragraph (2) of subdivision (c), and the members shall be selected pursuant to subdivision (e).

(2) For purposes of paragraph (1), if any number which is not a whole number results from the application of the term "one-third" or "two-thirds," the number of county supervisors shall be increased to the

nearest integer, and the number of mayors or city council members decreased to the nearest integer.

SEC. 18. Section 35104 of the Public Resources Code is repealed.

SEC. 19. Section 35107 of the Public Resources Code is repealed.

SEC. 20. Section 35122 of the Public Resources Code is repealed.

SEC. 21. Section 35123 of the Public Resources Code is repealed.

SEC. 22. Section 35123 is added to the Public Resources Code, to read:

35123. (a) Commencing in 2008, the elections of members of the governing board shall be held during the statewide election in November of the year that the term expires.

(b) The elections and the terms of office of the members of the governing board shall be determined pursuant to the Uniform District Election Law (Part 4 (commencing with Section 10500) of Division 10 of the Elections Code).

(c) Any vacancy in the office of a member of the governing board shall be filled pursuant to Section 1780 of the Government Code.

SEC. 23. Section 35124 of the Public Resources Code is repealed.

SEC. 24. Section 35124 is added to the Public Resources Code, to read:

35124. Each member of the governing board may receive compensation in the amount of seventy-five dollars ($75) for attending each meeting of the governing board, not to exceed two meetings in any calendar month, together with any actual and necessary expenses incurred in the performance of his or her official duties required or authorized by the governing board. The determination of whether a member's activities on any specific day are compensable shall be made pursuant to Article 2.3 (commencing with Section 53232) of Chapter 2 of Part 1 of Division 2 of Title 5 of the Government Code. Reimbursement for expenses is subject to Section 53232.2 and 53232.3 of the Government Code.

SEC. 25. Section 35130 of the Public Resources Code is repealed.

SEC. 26. Section 35130 is added to the Public Resources Code, to read:

35130. At the first governing board meeting in January of each year, the governing board shall select a chairperson who shall preside at all meetings, and a vice chairperson, who shall preside in the absence of the chairperson. In the event of the absence of the chairperson and the vice chairperson, the members present, by an order entered into the minutes, shall select one of the members present to act as chairperson pro tempore, who, while so acting, has all of the authority of the chairperson.

SEC. 27. Section 35138 of the Public Resources Code is repealed.

SEC. 28. Section 35160 of the Public Resources Code is repealed.

SEC. 28.1. Section 70223 of the Public Utilities Code is amended to read:

70223. A retail transactions and use tax ordinance may be adopted by the board in accordance with Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code, if two-thirds of the electors voting on the measure vote to authorize its enactment at a special election called for that purpose by the board. Notwithstanding Sections 7261 and 7262 of the Revenue and Taxation Code, the retail transactions and use tax ordinance shall provide for imposition of a tax at a rate of one-half of 1 percent or at a lower rate specified in the ordinance.

SEC. 28.2. Section 98290 of the Public Utilities Code is amended to read:

98290. A retail transactions and use tax ordinance may be adopted by the board in accordance with the provisions of Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code, provided that two-thirds of the electors voting on the measure vote to authorize its enactment at a special election called for that purpose by the board.

SEC. 28.3. Section 100250 of the Public Utilities Code is amended to read:

100250. A retail transactions and use tax ordinance may be adopted by the board in accordance with the provisions of Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code, provided that two-thirds of the electors voting on the measure vote to authorize its enactment at a special election called for that purpose by the board.

SEC. 28.4. Section 102350 of the Public Utilities Code is amended to read:

102350. A retail transactions and use tax ordinance may be adopted by the board in accordance with the provisions of Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code, provided two-thirds of the electors voting on the measure vote to authorize its enactment at a special election called for that purpose by the board.

SEC. 28.5. Section 130350 of the Public Utilities Code is amended to read:

130350. A retail transactions and use tax ordinance applicable in the incorporated and unincorporated territory of the County of Los Angeles may be adopted by the Los Angeles County Transportation Commission in accordance with Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code, provided that two-thirds of the

electors voting on the measure vote to authorize its enactment at a special election called for that purpose by the commission.

SEC. 28.6. Section 130401 of the Public Utilities Code is amended to read:

130401. A retail transactions and use tax ordinance applicable in the incorporated and unincorporated territory of the county may be adopted by the commission in accordance with Section 130410 and Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code, if two-thirds of the electors voting on the measure vote to approve its imposition at a special election called for that purpose by the commission and an expenditure plan is adopted pursuant to Section 130406.

SEC. 28.7. Section 131102 of the Public Utilities Code is amended to read:

131102. (a) Except as provided in subdivision (b), a retail transactions and use tax ordinance for a tax of either one-half of 1 percent or 1 percent applicable in the incorporated and unincorporated territory of a county may be imposed by a county transportation authority or the commission in the manner prescribed in Section 131103 and Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code, if two-thirds of the electors voting on the measure vote to approve its imposition at an election which shall be called for this purpose by the board of supervisors within one year after the adoption of a county transportation expenditure plan.

(b) The rate of tax imposed pursuant to subdivision (a) together with the rate of tax imposed pursuant to the Transactions and Use Tax Law (Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code) by any entity, as authorized by any other provision of law, shall not exceed 1 percent in any county.

(c) The ordinance shall take effect at the close of the polls on the day of election at which the proposition, as set forth in Section 131108, is adopted. The ordinance shall specify the period, as determined by the adopted county transportation expenditure plan during which the tax will be imposed. The tax may be terminated earlier if the projects in the adopted plan are completed and any bonds outstanding issued pursuant to this division are redeemed.

SEC. 28.8. Section 132301 of the Public Utilities Code is amended to read:

132301. A retail transactions and use tax ordinance applicable in the incorporated and unincorporated territory of the county shall be imposed by the commission in accordance with Section 132307 and Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code, if two-thirds of the electors voting on the measure vote

to approve its imposition at a special election called for that purpose by the commission. The tax ordinance shall take effect at the close of the polls on the day of election at which the proposition is adopted. The initial collection of the transactions and use tax shall take place in accordance with Section 132304.

If, at any time, the voters do not approve the imposition of the transactions and use tax, this chapter remains in full force and effect. The commission may, at any time thereafter, submit the same, or a different, measure to the voters in accordance with this chapter.

SEC. 28.9. Section 190300 of the Public Utilities Code is amended to read:

190300. The Legislature, by the enactment of this chapter, intends the additional funds provided government agencies by this chapter to supplement existing local revenues being used for transportation purposes. The government agencies shall maintain their existing commitment of local funds for transportation purposes pursuant to an ordinance adopted by the commission to enforce this section.

The commission may levy a retail transactions and use tax applicable in the incorporated and unincorporated territory of the county in accordance with this chapter and Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code. The ordinance shall only become effective if adopted by a two-thirds vote of the commission and subsequently approved by two-thirds of the electors voting on the measure at a special election called for the purpose by the board of supervisors or at any regular election. The board of supervisors shall call the election upon being requested to do so by a resolution adopted by the commission, but not otherwise. The commission shall specify in the ordinance that not more than 1 percent of the annual amount of revenues raised by the tax may be used to fund the salaries and benefits of the staff of the commission in administering the programs funded from that tax. The ordinance shall take effect at the close of the polls on the day of election at which the proposition is adopted. The initial collection of the transactions and use tax shall take place in accordance with Section 190304.

If the voters do not approve the ordinance, the board of supervisors may, at any time thereafter, submit the same, or a different, measure, if adopted by a two-thirds vote of the commission, to the voters in accordance with this division.

SEC. 28.10. Section 240301 of the Public Utilities Code is amended to read:

240301. The commission may levy a retail transactions and use tax applicable in the incorporated and unincorporated territory of the county in accordance with this chapter and Part 1.6 (commencing with Section

7251) of Division 2 of the Revenue and Taxation Code. The ordinance shall only become effective if adopted by a two-thirds vote of the commission and subsequently approved by two-thirds of the electors voting on the measure at a special election called for the purpose by the board of supervisors or at any regular election. The commission shall specify in the ordinance that not more than 1 percent of the annual net amount of revenues raised by the tax may be used to fund the salaries and benefits of the staff of the commission in administering the programs funded from that tax. The ordinance shall take effect at the close of the polls on the day of election at which the proposition is adopted. The initial collection of the transactions and use tax shall take place in accordance with Section 240304.

If the voters do not approve the ordinance, the board of supervisors may, at any time thereafter, submit the same, or a different, measure, if adopted by a two-thirds vote of the commission, to the voters in accordance with this division.

SEC. 29. Section 95 of the Revenue and Taxation Code is amended to read:

95. For the purpose of this chapter:

(a) "Local agency" means a city, county, and special district.

(b) "Jurisdiction" means a local agency, school district, community college district, or county superintendent of schools. A jurisdiction as defined in this subdivision is a "district" for purposes of Section 1 of Article XIII A of the California Constitution.

For jurisdictions located in more than one county, the county auditor of each county in which that jurisdiction is located shall, for the purposes of computing the amount for that jurisdiction pursuant to this chapter, treat the portion of the jurisdiction located within that county as a separate jurisdiction.

(c) "Property tax revenue" includes the amount of state reimbursement for the homeowners' exemption. "Property tax revenue" does not include the amount of property tax levied for the purpose of making payments for the interest and principal on either of the following:

(1) General obligation bonds or other indebtedness approved by the voters prior to July 1, 1978, including tax rates levied pursuant to Part 10 (commencing with Section 15000) of Division 1 of, and Sections 39308 and 39311 and former Sections 81338 and 81341 of the Education Code, and Section 26912.7 of the Government Code.

(2) Bonded indebtedness for the acquisition or improvement of real property approved by two-thirds of the voters on or after June 4, 1986.

(d) "Taxable assessed value" means total assessed value minus all exemptions other than the homeowners' and business inventory exemptions.

(e) "Jurisdictional change" includes any change of organization, as defined in Section 56021 of the Government Code and a reorganization, as defined in Section 56073 of the Government Code. "Jurisdictional change" also includes any change in the boundary of those special districts that are not under the jurisdiction of a local agency formation commission.

"Jurisdictional change" also includes a functional consolidation where two or more local agencies, except two or more counties, exchange or otherwise reassign functions and any change in the boundaries of a school district or community college district or county superintendent of schools.

(f) "School entities" means school districts, community college districts, the Educational Revenue Augmentation Fund, and county superintendents of schools.

(g) Except as otherwise provided in this subdivision, "tax rate area" means a specific geographic area all of which is within the jurisdiction of the same combination of local agencies and school entities for the current fiscal year.

In the case of a jurisdictional change pursuant to Section 99, the area subject to the change shall constitute a new tax rate area, except that if the area subject to change is within the same combinations of local agencies and school entities as an existing tax rate area, the two tax rate areas may be combined into one tax rate area.

Existing tax rate areas having the same combinations of local agencies and school entities may be combined into one tax rate area. For the combination of existing tax rate areas, the factors used to allocate the annual tax increment pursuant to Section 98 shall be determined by calculating a weighted average of the annual tax increment factors used in the tax rate areas being combined.

(h) "State assistance payments" means:

(1) For counties, amounts determined pursuant to subdivision (b) of Section 16260 of the Government Code, increased by the amount specified for each county pursuant to Section 94 of Chapter 282 of the Statutes of 1979, with the resultant sum reduced by an amount derived by the calculation made pursuant to Section 16713 of the Welfare and Institutions Code.

(2) For cities, 82.91 percent of the amounts determined pursuant to subdivisions (b) and (i) of Section 16250 of the Government Code, plus for any city an additional amount equal to one-half of the amount of any outstanding debt as of June 30, 1978, for "museums" as shown in the Controller's "Annual Report of Financial Transactions of Cities for Fiscal Year 1977–78."

(3) For special districts, 95.24 percent of the amounts received pursuant to Chapter 3 (commencing with Section 16270) of Part 1.5 of

Division 4 of Title 2 of the Government Code, Section 35.5 of Chapter 332 of the Statutes of 1978, and Chapter 12 of the Statutes of 1979.

(i) "City clerk" means the clerk of the governing body of a city or city and county.

(j) "Executive officer" means the executive officer of a local agency formation commission.

(k) "City" means any city whether general law or charter, except a city and county.

(*l*) "County" means any chartered or general law county. "County" includes a city and county.

(m) "Special district" means any agency of the state for the local performance of governmental or proprietary functions within limited boundaries. "Special district" includes a county service area, a maintenance district or area, an improvement district or improvement zone, or any other zone or area, formed for the purpose of designating an area within which a property tax rate will be levied to pay for a service or improvement benefiting that area. "Special district" includes the Bay Area Air Quality Management District. "Special district" does not include a city, a county, a school district, or a community college district. "Special district" does not include any agency that is not authorized by statute to levy a property tax rate. However, any special district authorized to levy a property tax by the statute under which the district was formed shall be considered a special district. Additionally, a county free library established pursuant to Article 1 (commencing with Section 19100) of Chapter 6 of Part 11 of Division 1 of Title 1 of the Education Code, and for which a property tax was levied in the 1977–78 fiscal year, shall be considered a special district.

(n) "Excess tax school entity" means an educational agency for which the amount of the state funding entitlement determined under Section 2558, 42238, 84750, or 84751 of the Education Code, as appropriate, is zero.

SEC. 29.3. Section 7262.5 of the Revenue and Taxation Code is repealed.

SEC. 29.5. Section 7262.6 of the Revenue and Taxation Code is repealed.

SEC. 30. Section 3110 of the Streets and Highways Code is amended to read:

3110. (a) The proposed boundaries of the district to be specially taxed or assessed in proceedings shall be described by resolution or ordinance adopted by the legislative body prior to the hearing on the formation or extent of the district. The description of the proposed boundaries shall be by reference to a map of the district which shall indicate by a boundary line the extent of the territory included in the

proposed district and the map shall govern for all details as to the extent of the district. The map shall also contain the name of the city and a distinctive designation, in words or by number, of the district shown on the map.

(b) The map shall be legibly drawn, printed or reproduced by a process that provides a permanent record. Each sheet of paper or other material used for the map shall be 18 by 26 inches in size, shall have clearly shown therein the particular number of the sheet, the total number of sheets comprising the map, and its relation to each adjoining sheet, and shall have encompassing its border a line that leaves a blank margin one inch in width.

The map shall be labeled substantially as follows: Proposed Boundaries of (here insert name or number of district) (here insert name of city and county thereafter), State of California.

In addition, if the resolution of intention to create the district proposes that some or all tax or bond proceeds of the district would be used to pay for cleanup of any hazardous substance, the map label shall include the following statement in large, conspicuous letters:

TAXES LEVIED BY THIS DISTRICT MAY BE USED TO PAY FOR CLEANUP OF HAZARDOUS SUBSTANCES.

If the map consists of more than one page, the same entitlement shall be on each page.

The map shall also have thereon legends reading substantially as follows:

(1) Filed in the office of the (clerk of the legislative body) this ____ day of ____ 20__.

_____

(Clerk of the legislative body)

(2) I hereby certify that the within map showing proposed boundaries of (here insert name or number of district) (here insert name of city, and, if not a county, insert name of county thereafter), State of California, was approved by the city council (or other appropriate legislative body) of the (here insert city) at a regular meeting thereof, held on the ____ day of ____, 20__, by its Resolution No. ____.

(3) Filed this ____ day of ____, 20__, at the hour of ____ o'clock _m. in Book ____ of Maps of Assessment and Community Facilities Districts at page ____, in the office of the county recorder in the County of ____, State of California.

_____

(County Recorder of County of _____)

SEC. 31. In amending Section 1780 of the Government Code by this act, it is the intent of the Legislature to codify the court's interpretation of that section as expressed in Robson v. Upper San Gabriel Valley Municipal Water District (2006) 142 Cal.App.4th 877.

SEC. 32. With respect to Sections 9, 23, 25, and 27 of this act, the Legislature finds and declares that a special law is necessary and a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique circumstances of Mendocino County and Santa Clara County respectively. The facts constituting the special circumstances include the need to reorganize the structure and duties of county officers to reduce costs, increase productivity, and enhance public service in those counties.

CHAPTER 344

An act to add Part 6.5 (commencing with Section 22959.80) to Division 5 of Title 2 of the Government Code, relating to vision care.

[Approved by Governor October 8, 2007. Filed with Secretary of State October 8, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Part 6.5 (commencing with Section 22959.80) is added to Division 5 of Title 2 of the Government Code, to read:

PART 6.5. CALIFORNIA STATE UNIVERSITY ANNUITANT VISION CARE PROGRAM

22959.80. This part shall be known and may be cited as the California State University Annuitant Vision Care Program. The purpose of this part is to do all of the following:

(a) Promote increased economy and efficiency in providing vision benefits to California State University annuitants.

(b) Enable the California State University to use economies of scale to provide a vision care plan similar to those commonly provided in private industry and in other states.

(c) Recognize and protect the California State University's investment in each employee by providing into retirement the option of a vision care program, and to promote and preserve continued good health among California State University annuitants.

22959.81. The California State University Annuitant Vision Care Program shall be administered by the Office of the Chancellor of the California State University.

22959.82. "Annuitant" means any of the following:

(a) A person who has retired within 120 days of separation from California State University employment and who receives a retirement allowance under any state retirement or University of California retirement system to which the California State University was a contributing party.

(b) A surviving family member receiving an allowance in place of an annuitant who has retired as provided in subdivision (a), or as the survivor of a deceased California State University employee under Section 21541 or 21546.

(c) A person receiving a survivor allowance pursuant to Article 3 (commencing with Section 21570) of Chapter 14 of Part 3 if he or she was eligible to enroll in a health benefit plan on the date of the California State University employee member's death, on whose account the survivor allowance is payable.

(d) A family member of a deceased retired member of the State Teachers' Retirement Plan, if the deceased member meets both of the following conditions:

(1) Retired within 120 days of separation from California State University employment.

(2) Prior to his or her death, received a retirement allowance that did not provide for a survivor allowance to family members.

22959.83. (a) An annuitant who retires from a California State University campus or the office of the chancellor may enroll in a vision care plan offered under this part, if any of the following apply:

(1) The annuitant was enrolled in a health benefit plan, a dental care plan, or vision care plan at the time of separation for retirement, and retired within 120 days of the date of separation.

(2) The annuitant was not enrolled in a health benefit plan, a dental care plan, or vision care plan at the time of separation for retirement, but was eligible for enrollment as an employee at the time of separation for retirement, and retired within 120 days of the date of separation.

(b) The California State University has no duty to locate or notify any annuitant who may be eligible to enroll, or to provide names or addresses to any person, agency, or entity for the purpose of notifying those annuitants.

22959.84. A California State University employee who was enrolled in a vision care plan at the time he or she became an annuitant under state or federal provisions may continue his or her enrollment, including eligible family members, without discrimination as to benefit coverage,

as an enrolled person within this program. An annuitant who is eligible for this program is a person who meets the requirements of Section 22959.83 and at the time of retirement was employed by a California State University campus or the office of the chancellor.

22959.85. (a) The California State University may contract with one or more vision care plans for annuitants and eligible family members if the carrier or carriers have operated successfully in the area of vision care benefits for a reasonable period, as determined by the California State University.

(b) The California State University, as the program administrator, has full administrative authority over this program and associated funds and shall require the monthly premium to be paid by the annuitant for the vision care plan. The premium to be paid by the annuitant shall be deducted from his or her monthly retirement allowance. A vision care plan or plans provided under this authority shall be funded by the annuitants' premiums. All premiums received from annuitants shall be deposited in the California State University Annuitant Vision Care Program trust account, which is hereby created. Any income earned on the moneys in the California State University Annuitant Vision Care Program trust account shall be credited to the trust account.

(c) An annuitant may enroll in a vision care plan provided by a carrier that also provides a health benefit plan pursuant to Section 22850 if the employee or annuitant is also enrolled in the health benefit plan provided by that carrier. However, nothing in this section may be construed to require an annuitant to enroll in a vision care plan and a health benefit plan provided by the same carrier. An annuitant enrolled in this program shall only enroll in a vision plan or vision plans contracted for by the California State University.

(d) No contract for a vision care plan may be entered into unless the California State University determines it is reasonable to do so. Notwithstanding any other provision of law, any premium moneys paid into this program by annuitants for the purposes of a vision care plan shall be used for the cost of providing vision care benefits to eligible, enrolled annuitants and their eligible and enrolled dependents, the payment of claims for those vision benefits, and the cost of administration of the vision care plan or plans under this vision care program, including startup costs, as determined by the California State University.

(e) If the California State University determines that it is not economically feasible to continue this program any time after its commencement, the California State University may, upon written notice to enrollees and to the contracting plan or plans, terminate this program within a reasonable time. The notice of termination to the plan or plans shall be determined by the California State University. The notice to

enrollees of the termination of the program shall commence no later than three months prior to the actual date of termination of the program. The California State University shall notify the Legislature of a decision to terminate the program.

(f) Premium rates for this program shall be determined by the California State University in conjunction with the contracted plan or plans and shall be considered separate and apart from active employee premium rates.

22959.86. On or after July 1, 2008, the California State University shall implement the California State University Annuitant Vision Care Program.

CHAPTER 345

An act to amend Sections 44225.6, 44253.11, 44274.2, 44387, and 94110 of the Education Code, relating to education, and making an appropriation therefor.

[Approved by Governor October 8, 2007. Filed with Secretary of State October 8, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 44225.6 of the Education Code is amended to read:

44225.6. (a) By April 15 of each year, the commission shall report to the Legislature and the Governor on the availability of teachers in California. This report shall include the following information:

(1) The number of individuals recommended for credentials by institutions of higher education and the type of credential or certificate, or both, for which they were recommended, including certificates issued pursuant to Sections 44253.3 and 44253.4.

(2) The number of individuals recommended by school districts operating district internship programs and the type of credential or certificate, or both, for which they were recommended, including certificates issued pursuant to Sections 44253.3 and 44253.4.

(3) The number of individuals receiving an initial credential based on a program completed outside of California and the type of credential or certificate, or both, for which they were recommended, including certificates issued pursuant to Sections 44253.3 and 44253.4.

(4) The number of individuals receiving an emergency permit, credential waiver, or other authorization that does not meet the definition

of a highly qualified teacher under the federal No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301 et seq.).

(5) The number of individuals receiving the certificate of completion of staff development in methods of specially designed content instruction delivered in English pursuant to subdivision (d) of Section 44253.10 and, separately, pursuant to paragraph (1) of subdivision (e) of Section 44253.11.

(6) Statewide, by county, and by school district, the number of individuals serving in the following capacities and as a percentage of the total number of individuals serving as teachers statewide, in the county, and in the school district:

(A) University internship.

(B) District internship.

(C) Preinternship.

(D) Emergency permit.

(E) Credential waiver.

(F) Preliminary or professional clear credential.

(G) An authorization, other than those listed in this paragraph, that does not meet the definition of a highly qualified teacher under the federal No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301 et seq.) by category of authorization.

(H) Certificate issued pursuant to Section 44253.3.

(I) Certificates issued pursuant to Section 44253.3, 44253.4, 44253.10, or 44253.11, if available.

(J) The number of individuals serving English learner pupils in settings calling for English language development, in settings calling for specially designed academic instruction in English, or in primary language instruction, without the appropriate authorization under Section 44253.3, 44253.4, 44253.10, or 44253.11, or under another statute, if available. The Commission on Teacher Credentialing may utilize data from the department's Annual Language Census Survey to report the data required pursuant to this paragraph.

(7) The specific subjects and teaching areas in which there are a sufficient number of new holders of credentials to fill the positions currently held by individuals with emergency permits.

(b) The commission shall make this report available to school districts and county offices of education to assist them in the recruitment of credentialed teachers and shall make the report and supporting data publicly available on the commission's Web site.

(c) A common measure of whether teacher preparation programs are meeting the challenge of preparing increasing numbers of new teachers is the number of teaching credentials awarded. The number of teaching credentials recommended by these programs and awarded by the

commission are indicators of the productivity of teacher preparation programs. The commission shall include in the report prepared for the Legislature and Governor pursuant to subdivision (a) the total number of teaching credentials recommended by all accredited teacher preparation programs authorized by the commission and the number recommended by each of the following:

(1) The University of California system.

(2) The California State University system.

(3) Independent colleges and universities that offer teacher preparation programs approved by the commission.

(4) Other institutions that offer teacher preparation programs approved by the commission.

SEC. 2. Section 44253.11 of the Education Code is amended to read:

44253.11. (a) A teacher with a designated subjects teaching credential or a service credential with a special class authorization may enroll in a course that meets the minimum requirements of staff development in methods of specially designed content instruction delivered in English, as described in Section 44253.3, 44253.4, 44253.7, or 44253.10.

(b) The commission, in consultation with the Superintendent, shall establish guidelines for the provision of staff development pursuant to this section that are at least as rigorous as the guidelines established pursuant to Section 44253.10. The commission and the Superintendent may designate guidelines established pursuant to Section 44253.10 in satisfaction of this subdivision. Staff development pursuant to this section shall be consistent with the guidelines of the commission.

(1) To ensure the highest standards of program quality and effectiveness, the guidelines shall include quality standards applicable to persons who train others to perform staff development training, as well as for persons who provide the training.

(2) The guidelines shall require that staff development offered pursuant to this section be aligned with the teacher preparation that leads to the issuance of a certificate pursuant to Section 44253.3.

(3) The guidelines and standards established by the commission to implement this section shall comply with federal law.

(4) The commission shall review staff development programs in relation to the guidelines and standards established pursuant to this section. The review shall include all programs offered pursuant to this section. If the commission finds that a program meets the applicable guidelines and standards, the commission shall forward a report of its findings to the chief executive officer of the sponsoring school district, county office of education, or regionally accredited college or university. If the commission finds that a program does not meet the applicable guidelines or standards, or both, the report of the commission shall

specify the areas of noncompliance and the time period in which a second review must occur. If a second review reveals a pattern of continued noncompliance with the applicable guidelines or standards, or both, the sponsoring agency shall be prohibited from continuing to offer the program to teachers.

(c) The staff development may be sponsored by a school district, county office of education, or regionally accredited college or university that meets the standards included in the guidelines established pursuant to this section or an organization that meets those standards and that is approved by the commission. An equivalent course may be taken by a teacher at a regionally accredited college or university in order to satisfy the staff development requirement. Once the commission makes a determination that a college or university class is equivalent, no further review of the class shall be required.

(d) (1) A teacher who completes the staff development described in this section shall be awarded a certificate of completion in methods of specially designed content instruction delivered in English.

(2) A teacher who completes the staff development described in this section is allowed to provide specially designed content instruction delivered in English, as defined in subdivision (b) of Section 44253.2.

(3) A teacher who completes the staff development described in this section may not be assigned to provide content instruction delivered in the primary language of the pupil, as defined in subdivision (c) of Section 44253.2.

(e) A teacher who completes a staff development program in methods of specially designed content instruction delivered in English pursuant to this section shall receive a certificate of completion from the commission upon submitting an application, a staff development verification form to be furnished by the commission and payment of a fee, as determined by the commission, not to exceed forty-five dollars ($45).

(f) The certificate of completion is valid in all public schools. A teacher who has been issued a certificate of completion may be assigned indefinitely to provide the instructional services named on the certificate in a school district, county office of education, or school administered under the authority of the Superintendent.

(g) Teacher assignments made in accordance with this section shall be included in the reports required by Sections 44225.6 and 44258.9.

(h) The governing board of each school district shall make reasonable efforts to provide limited-English-proficient pupils in need of English language development instruction with teachers who hold appropriate credentials, language development specialist certificates, or cross-cultural language and academic development certificates that authorize English

language development instruction. However, a teacher awarded a certificate or certificates of completion pursuant to this section shall be deemed certificated and competent to provide the services listed on that certificate of completion.

(i) A teacher completing staff development pursuant to this section shall be credited with three semester units or four quarter units for each block of 45 clock hours completed for the purpose of meeting the requirements set forth in subdivision (b) of Section 44253.3.

SEC. 3. Section 44274.2 of the Education Code is amended to read:

44274.2. (a) Notwithstanding any provision of this chapter, the commission shall issue a five-year preliminary multiple subject teaching credential authorizing instruction in a self-contained classroom, a five-year preliminary single subject teaching credential authorizing instruction in departmentalized classes, or a five-year preliminary education specialist credential authorizing instruction of special education pupils to an out-of-state prepared teacher who meets all of the following requirements:

(1) Possesses a baccalaureate degree from a regionally accredited institution of higher education.

(2) Has completed a teacher preparation program at a regionally accredited institution of higher education, or a state-approved teacher preparation program offered by a local educational agency.

(3) Meets the subject matter knowledge requirements for the credential. If the subject area listed on the out-of-state credential does not correspond to a California subject area, as specified in Sections 44257 and 44282, the commission may require the applicant to meet California subject matter requirements before issuing a professional clear credential.

(4) Has earned a valid corresponding elementary, secondary, or special education teaching credential based upon the out-of-state teacher preparation program. For the education specialist credential, the commission shall determine the area of concentration based on the special education program completed out of state.

(5) Has successfully completed a criminal background check conducted under Sections 44339, 44340, and 44341 for credentialing purposes.

(b) The holder of a credential issued pursuant to this section shall meet the state basic skills proficiency requirement set forth in Section 44252 within one year of the date the credential is issued or the credential shall become invalid.

(c) The commission shall issue a professional clear multiple subject, single subject, or education specialist teaching credential to an applicant who satisfies the requirements of subdivision (a), provides verification of two or more years of teaching experience, including, but not limited

to, two satisfactory performance evaluations, and documents, in a manner prescribed by the commission, that he or she fulfills each of the following requirements:

(1) The applicant has completed 150 clock hours of activities that contribute to his or her competence, performance, and effectiveness in the education profession, and that assist the applicant in meeting or exceeding standards for professional preparation established by the commission, or the applicant has earned a master's degree or higher in a field related to the credential, or the equivalent semester units, from a regionally accredited institution of higher education.

(2) The applicant has met the state requirements for teaching English language learners including, but not limited to, the requirements in Section 44253.3.

(d) For applicants who do not meet the experience requirement described in subdivision (c), the commission shall issue a professional clear multiple subject, single subject, or education specialist teaching credential upon verification of the following requirements:

(1) The commission has issued to the applicant a preliminary five-year teaching credential pursuant to subdivision (a).

(2) The applicant has completed a beginning teacher induction program pursuant to paragraph (2) of subdivision (c) of Section 44259.

(3) The applicant has met the requirements for teaching English language learners including, but not limited to, the requirements in Section 44253.3.

(4) Prior to issuing an education specialist credential under this subdivision, the commission shall verify completion of a program for the Professional Level II credential accredited by the commission.

SEC. 4. Section 44387 of the Education Code is amended to read:

44387. (a) From funds appropriated for purposes of this section, the commission may award increased funding, in addition to incentive grants awarded pursuant to Section 44386, to a school district or county office of education that agrees to enhance internship programs as provided in subdivision (b) and to address the distribution of teacher interns as required in subdivision (c).

(b) To qualify for increased intern program funding pursuant to this section, a school district or county office of education shall do all of the following:

(1) Provide teacher interns with the greater of (A) 120 hours of intensive preservice training focused on the teaching of English language learners, or (B) 40 hours of the preservice training in addition to all other required training, including, but not limited to, training required pursuant to Sections 44253.3, 44253.4, and 44253.10. The preservice training

shall be completed before an intern teacher may provide instructional services.

(2) Provide all teacher interns with 40 hours of classroom observation, supervision, assistance, and assessment by one or more experienced teachers who possess valid certification to teach at the same grade level and the same subject matter and who are employed by the school district or county office of education, are assigned to assist the intern at the schoolsite, and, to the extent possible, are assigned to teach at the same schoolsite as the intern who is being assisted.

(3) Maintain a ratio of one experienced teacher to no more than five teacher interns at the same schoolsite.

(c) To continue to receive increased intern program funding pursuant to this section, commencing with the receipt of funding for a second year, a school district or county office of education shall show annually to the commission that no high-priority school, as described in Section 52055.605, will have a higher percentage of teacher interns than the districtwide average of teacher interns at a school in that year.

(d) Increased funding up to a total of three thousand five hundred dollars ($3,500) per intern, per year, may be awarded by the commission to a school district or county office of education that meets the requirements of this section.

(e) Participants in an alternative certification program pursuant to this article, a district intern program conducted pursuant to Article 7.5 (commencing with Section 44325), or an intern program conducted pursuant to Article 3 (commencing with Section 44450) of Chapter 3, who have received a preliminary credential and who are generating funding for participating in an induction program pursuant to Article 4.5 (commencing with Section 44279.1) are eligible to generate enhanced funding under this section.

(f) When reporting to the Legislature and the Governor pursuant to Section 44225.6, the commission shall include the number of school districts and county offices of education receiving increased funding, and the number of interns for whom increased funding is claimed, pursuant to this section.

SEC. 5. Section 94110 of the Education Code is amended to read:

94110. As used in this chapter, the following words and terms have the following meanings, unless the context indicates or requires another or different meaning or intent:

(a) "Authority" means the California Educational Facilities Authority created by this chapter or any board, body, commission, department, or officer succeeding to the principal functions of the authority or to whom the power conferred upon the authority by this chapter is given by law.

(b) "Bond" means bonds, notes, debentures, or other securities of the authority issued pursuant to this chapter.

(c) "Cost," as applied to a project or portion thereof financed under this chapter, means all or any part of the cost of construction and acquisition of lands, structures, real or personal property, rights, rights-of-way, franchises, easements, and interests acquired or used for a project, the cost of demolishing or removing buildings or structures on acquired land, including the cost of acquiring lands to which the buildings or structures may be moved, the cost of machinery and equipment, financing charges, interest prior to, during, and for a period after completion of, the construction as determined by the authority, provisions for working capital, reserves for principal and interest and for extension, enlargements, additions, replacements, renovations and improvements, the cost of engineering, financial and legal services, plans, specifications, studies, surveys, estimates, administrative expenses, and other expenses necessary or incidental to determining the feasibility of constructing a project or incident to the construction or acquisition or financing of a project.

(d) "Dormitory" means a housing unit with necessary and usual attendant and related facilities and equipment.

(e) (1) "Educational facility" means a dormitory, dining hall, student union, administration building, academic building, library, laboratory, research facility, classroom, health care facility (including for an institution of higher education that maintains and operates a school of medicine, structures or facilities designed to provide services as a hospital or clinic, whether the hospital or clinic is operated directly by the institution of higher education or by a separate nonprofit corporation, the members of which consist of the educational institution or the members of its governing body), faculty and staff housing, parking, maintenance, storage, or utility facilities, and other related structures or facilities used for student instruction, conducting research, or operating an institution for higher education, and related facilities and equipment.

(2) "Educational facility" does not include a facility used or to be used for sectarian instruction or as a place for religious worship, or a facility used or to be used primarily in connection with a part of the program of a school or department of divinity.

(f) "Faculty and staff housing" means a residential unit owned by a participating college or participating nonprofit entity for use by an individual holding a faculty appointment or a staff position at a public university, public college, or participating college.

(g) "Participating nonprofit entity" means an entity within the meaning of paragraph (3) of subsection (c) of Section 501 of Title 26 of the United States Code that, pursuant to this chapter for the purpose of owning

student, faculty, or staff housing, as approved by, and for participation with, the authority, undertakes the financing and construction or acquisition of student, faculty, or staff housing, on real property owned or leased by the entity, for the benefit of a public college, public university, or participating private college. The authority may determine any additional qualifications of a participating nonprofit entity through regulations or guidelines.

(h) "Participating private college" or "participating college" means a private college that neither restricts entry on racial or religious grounds nor requires students gaining admission to receive instruction in the tenets of a particular faith, and that, pursuant to this chapter, participates with the authority in undertaking the financing and construction or acquisition of a project.

(i) (1) "Private college" means an institution for higher education other than a public college, situated within the state and that, by virtue of law or charter, is a nonprofit private or independent degree-granting educational institution that is regionally accredited and empowered to provide a program of education beyond the high school level.

(2) For purposes of obtaining financing under this chapter, "private college" also includes either of the following:

(A) A nonprofit affiliate, established on or prior to January 1, 2005, of one or more private colleges, as defined in paragraph (1), the sole or primary purpose of which is to provide administrative or other support services to an affiliated private college or private colleges, and that undertakes the financing of a project for the exclusive use and benefit of one or more of the affiliated private colleges.

(B) A private nonprofit research organization engaged in basic research and advanced education at the predoctoral and postdoctoral levels through personnel situated within the state, but only if the organization previously has borrowed the proceeds of bonds or other obligations previously issued by the authority.

(j) (1) "Project" means a dormitory or an educational facility, faculty or staff housing, or any combination thereof, or any function concerning student loans, or interests therein, as determined by the authority.

(2) For a participating nonprofit entity, "project" means the construction or acquisition of student housing or faculty and staff housing. The authority, in consultation with the top administrative officials and the participating nonprofit entity, shall develop and adopt regulations to ensure, to the greatest extent practicable, that each project involving a participating nonprofit entity is used to house students, faculty, or staff of the participating private college, public college, or public university. The student, faculty, or staff housing shall meet all of the following criteria:

(A) Upon completion or acquisition of the project, the project will be owned by a participating nonprofit entity and located on real property owned, or leased by, that entity.

(B) The top administrative official of the public university, public college, or participating private college that the project is intended to benefit, verifies the need for housing and financing assistance in a specific area pursuant to subparagraph (D).

(C) The project is monitored on an annual basis by the authority to ensure that it meets the requirements of subparagraph (E) and all other regulatory agreements entered into by the authority.

(D) The project is located within a five-mile radius of the boundary of a campus or satellite center of the public college, public university, or participating private college that the project is intended to benefit. The participating nonprofit entity may request approval from the top official of the institution for a project that is located outside the five-mile radius, provided that all of the following criteria are met:

(i) There are no available and feasible sites within the five-mile radius.

(ii) The project is near a mass transit destination.

(iii) The time required to commute from campus to the mass transit destination, as estimated by the top administrative official, typically does not exceed 30 minutes.

(E) (i) The project includes and maintains for 40 years a restriction to the grant deed on the real property on which the student or faculty and staff housing is to be located. The grant deed shall accomplish all of the following:

(I) Give the public college, public university, or participating private college that the project is intended to benefit the right, but not the obligation, to purchase the property at fair market value.

(II) Ensure that students, faculty, or staff of the affected campus will have first right of refusal to all available units.

(III) Require that, to the greatest extent feasible, at least 50 percent of student residents will meet the criteria for need-based financial assistance, as determined by the top administrative official of the affected campus.

(IV) Require that all contracts for construction and renovation of the proposed project shall be subject to, and comply with the provisions referenced in, Section 10128 of the Public Contract Code.

(ii) For purposes of this subparagraph, the authority, through regulation or rule, shall define "student" and "faculty," taking into consideration enrollment status requirements and employment status requirements. The definitions of "student" and "faculty" may be different for each participating campus.

(k) "Public college" means a community college.

(*l*) "Public university" means any campus of the University of California, the California State University, or the Hastings College of the Law.

(m) "Student housing" means a residential unit owned by a participating nonprofit entity, and located on real property owned by that entity, for use by an individual enrolled at a public college, public university, or participating private college.

(n) "Student loan" means a loan having terms and conditions acceptable to the authority that is made to finance or refinance the costs of attendance at a private college or a public college and that is approved by the authority, if the loan is originated pursuant to a program that is approved by the authority.

(o) "Top administrative official" means the chancellor in the case of a campus of the University of California, the dean in the case of the Hastings College of the Law, the president in the case of a campus of the California State University, the president in the case of a campus of the California Community Colleges, or the president or highest ranking official in the case of a participating private college.

CHAPTER 346

An act to add Section 4059 to, and to amend Section 48001 of, the Food and Agricultural Code, relating to agriculture.

[Approved by Governor October 8, 2007. Filed with Secretary of State October 8, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 4059 is added to the Food and Agricultural Code, to read:

4059. (a) (1) Notwithstanding any other provision of law, the Department of Food and Agriculture shall develop criteria to be used, subject to the approval of the Department of General Services, for the disposal of property by a district agricultural association and the California Exposition and State Fair.

(2) As used in this section, "disposal of property" means the sale of equipment, materials or other forms of personal property no longer necessary to effectuate the purposes of the fair and that do not exceed an estimated fair market value of fifty thousand dollars ($50,000).

(b) The board of the district agricultural association or California Exposition and State Fair shall, prior to the disposal of property, as

defined in this section, first be required to determine, through the Department of Food and Agriculture, if the property can be used by another fair in the California Fair Network or other state agency or department. If determined that such use is not possible, the board of the district agricultural association or California Exposition and State Fair shall sell the property to the buyer that submits the highest bid.

(c) The regular department audit of district agricultural associations shall confirm the source of funds of any disposed property and compliance with the criteria developed under this section for the disposal of property.

(d) The adoption of the criteria developed pursuant to this section shall relieve a district agricultural association and the California Exposition and State Fair of any requirements to abide by the provisions of the State Administrative Manual which may apply to disposal of property developed by the Department of General Services.

SEC. 2. Section 48001 of the Food and Agricultural Code is amended to read:

48001. (a) There is in the department the California Citrus Advisory Committee.

(b) The committee shall be comprised as follows:

(1) Eight producers.

(A) Five producer members shall be engaged in the production of navel or Valencia oranges; four of which shall be engaged in the production of navel or Valencia oranges in the San Joaquin Valley, and two of the four members shall be engaged in the production of navel or Valencia oranges in Tulare County.

(B) Two producer members shall be engaged in the production of lemons, one of which is engaged in the production of lemons in Ventura County.

(C) One of the members shall be engaged in the production of mandarin citrus.

(2) Four handlers, which have their principal place of business located in one of the following counties: Fresno, Kern, Madera, Orange, Riverside, San Bernardino, Santa Clara, Tulare, and Ventura.

(A) Two handler members shall be located in the San Joaquin Valley.

(B) One handler member shall be engaged in the handling of lemons in Ventura County.

(c) The committee shall be appointed by the secretary from nominations submitted to the secretary by members of the navel orange, Valencia orange, lemon, and mandarin citrus industries group.

(d) Committee members may be compensated for reasonable expenses actually incurred in the performance of their duties, as determined by the committee and concurred in by the secretary.

(e) The committee shall meet at the request of the secretary, the committee chairperson, or upon the request of three committee members.

(f) The committee shall appoint a chairperson, one or more vice chairpersons, and any other officers it deems necessary.

(g) The committee shall develop and make recommendations to the secretary on all matters regarding the implementation of this chapter including:

(1) Procedures for implementing an inspection program that shall include, but not be limited to, the following:

(A) Mandatory hold for inspection prior to shipping, following a citrus freeze.

(B) The minimum number of inspections to be conducted, and the duration of each inspection period.

(C) The minimum number of samples to be taken.

(D) Statistical analysis of compliance levels and determination of an acceptable level of compliance.

(E) Documentation of inspection data including the number of inspectors, number of inspections performed, and budget information relating to expenses of personnel, mileage, and overhead costs.

(F) Monitoring and postevaluation of program effectiveness by the secretary.

(G) Development of a single memorandum of understanding between the department and all county agricultural commissioners for the counties specified in subdivision (b).

(2) Determinations as to which counties have met the inspection requirements.

(3) Procedures for implementing a state crop estimating and acreage survey.

(h) The secretary shall accept the recommendations of the committee if he or she determines that the recommendations are practicable and in the interest of the industry and the public. The secretary shall provide the committee within 30 days of receipt of the recommendations with a written statement of reasons if he or she does not accept any of the recommendations.

CHAPTER 347

An act to amend Sections 127400, 127405, 127425, 127430, 127440, and 127444 of the Health and Safety Code, relating to hospitals.

[Approved by Governor October 8, 2007. Filed with Secretary of State October 8, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 127400 of the Health and Safety Code is amended to read:

127400. As used in this article, the following terms have the following meanings:

(a) "Allowance for financially qualified patient" means, with respect to services rendered to a financially qualified patient, an allowance that is applied after the hospital's charges are imposed on the patient, due to the patient's determined financial inability to pay the charges.

(b) "Federal poverty level" means the poverty guidelines updated periodically in the Federal Register by the United States Department of Health and Human Services under authority of subsection (2) of Section 9902 of Title 42 of the United States Code.

(c) "Financially qualified patient" means a patient who is both of the following:

(1) A patient who is a self-pay patient, as defined in subdivision (f) or a patient with high medical costs, as defined in subdivision (g).

(2) A patient who has a family income that does not exceed 350 percent of the federal poverty level.

(d) "Hospital" means any facility that is required to be licensed under subdivision (a), (b), or (f) of Section 1250, except a facility operated by the State Department of Mental Health or the Department of Corrections.

(e) "Office" means the Office of Statewide Health Planning and Development.

(f) "Self-pay patient" means a patient who does not have third-party coverage from a health insurer, health care service plan, Medicare, or Medicaid, and whose injury is not a compensable injury for purposes of workers' compensation, automobile insurance, or other insurance as determined and documented by the hospital. Self-pay patients may include charity care patients.

(g) "A patient with high medical costs" means a person whose family income does not exceed 350 percent of the federal poverty level, as defined in subdivision (c), if that individual does not receive a discounted rate from the hospital as a result of his or her third-party coverage. For these purposes, "high medical costs" means any of the following:

(1) Annual out-of-pocket costs incurred by the individual at the hospital that exceed 10 percent of the patient's family income in the prior 12 months.

(2) Annual out-of-pocket expenses that exceed 10 percent of the patient's family income, if the patient provides documentation of the patient's medical expenses paid by the patient or the patient's family in the prior 12 months.

(3) A lower level determined by the hospital in accordance with the hospital's charity care policy.

(h) "Patient's family" means the following:

(1) For persons 18 years of age and older, spouse, domestic partner, as defined in Section 297 of the Family Code, and dependent children under 21 years of age, whether living at home or not.

(2) For persons under 18 years of age, parent, caretaker relatives and other children under 21 years of age of the parent or caretaker relative.

SEC. 2. Section 127405 of the Health and Safety Code is amended to read:

127405. (a) (1) Each hospital shall maintain an understandable written policy regarding discount payments for financially qualified patients as well as an understandable written charity care policy. Uninsured patients or patients with high medical costs who are at or below 350 percent of the federal poverty level, as defined in subdivision (c) of Section 127400, shall be eligible to apply for participation under each hospital's charity care policy or discount payment policy. Notwithstanding any other provision of this act, a hospital may choose to grant eligibility for its discount payment policy or charity care policies to patients with incomes over 350 percent of the federal poverty level. Both the charity care policy and the discount payment policy shall state the process used by the hospital to determine whether a patient is eligible for charity care or discounted payment. In the event of a dispute, a patient may seek review from the business manager, chief financial officer, or other appropriate manager as designated in the charity care policy and the discount payment policy.

(2) Rural hospitals, as defined in Section 124840, may establish eligibility levels for financial assistance and charity care at less than 350 percent of the federal poverty level as appropriate to maintain their financial and operational integrity.

(b) Each hospital's discount payment policy shall clearly state eligibility criteria based upon income consistent with the application of the federal poverty level. The discount payment policy shall also include an extended payment plan to allow payment of the discounted price over time. The policy shall provide that the hospital and the patient may negotiate the terms of the payment plan.

(c) The charity care policy shall clearly state eligibility criteria for charity care. In determining eligibility under its charity care policy, a hospital may consider income and monetary assets of the patient. For purposes of this determination, monetary assets shall not include retirement or deferred compensation plans qualified under the Internal Revenue Code, or nonqualified deferred compensation plans. Furthermore, the first ten thousand dollars ($10,000) of a patient's

monetary assets shall not be counted in determining eligibility, nor shall 50 percent of a patient's monetary assets over the first ten thousand dollars ($10,000) be counted in determining eligibility.

(d) Each hospital shall limit expected payment for services it provides to any patient at or below 350 percent of the federal poverty level, as defined in subdivision (b) of Section 124700, eligible under its discount payment policy to the amount of payment the hospital would expect, in good faith, to receive for providing services from Medicare, Medi-Cal, Healthy Families, or any other government-sponsored health program of health benefits in which the hospital participates, whichever is greater. If the hospital provides a service for which there is no established payment by Medicare or any other government-sponsored program of health benefits in which the hospital participates, the hospital shall establish an appropriate discounted payment.

(e) Any patient, or patient's legal representative, who requests a discounted payment, charity care, or other assistance in meeting their financial obligation to the hospital shall make every reasonable effort to provide the hospital with documentation of income and health benefits coverage. If the person requests charity care or a discounted payment and fails to provide information that is reasonable and necessary for the hospital to make a determination, the hospital may consider that failure in making its determination.

(1) For the purpose of determining eligibility for discounted payment, documentation of income shall be limited to recent pay stubs or income tax returns.

(2) For the purpose of determining eligibility for charity care, documentation of assets may include information on all monetary assets, but shall not include statements on retirement or deferred compensation plans qualified under the Internal Revenue Code, or nonqualified deferred compensation plans. A hospital may require waivers or releases from the patient or the patient's family, authorizing the hospital to obtain account information from financial or commercial institutions, or other entities that hold or maintain the monetary assets to verify their value.

(3) Information obtained pursuant to paragraph (1) or (2) shall not be used for collections activities. Nothing in this paragraph prohibits the use of information obtained by the hospital, collection agency, or assignee independently of the eligibility process for charity care or discounted payment.

(4) Eligibility for discounted payments or charity care may be determined at any time the hospital is in receipt of information specified in paragraph (1) or paragraph (2), respectively.

SEC. 3. Section 127425 of the Health and Safety Code is amended to read:

127425. (a) Each hospital shall have a written policy about when and under whose authority patient debt is advanced for collection, whether the collection activity is conducted by the hospital, an affiliate or subsidiary of the hospital, or by an external collection agency.

(b) Each hospital shall establish a written policy defining standards and practices for the collection of debt, and shall obtain a written agreement from any agency that collects hospital receivables that it will adhere to the hospital's standards and scope of practices. The policy shall not conflict with other applicable laws and shall not be construed to create a joint venture between the hospital and the external entity, or otherwise to allow hospital governance of an external entity that collects hospital receivables. In determining the amount of a debt a hospital may seek to recover from patients who are eligible under the hospital's charity care policy or discount payment policy, the hospital may consider only income and monetary assets as limited by Section 127405.

(c) At time of billing, each hospital shall provide a written summary consistent with Section 127410, which includes the same information concerning services and charges provided to all other patients who receive care at the hospital.

(d) For a patient that lacks coverage, or for a patient that provides information that he or she may be a patient with high medical costs, as defined in this article, a hospital, any assignee of the hospital, or other owner of the patient debt, including a collection agency, shall not report adverse information to a consumer credit reporting agency or commence civil action against the patient for nonpayment at any time prior to 150 days after initial billing.

(e) If a patient is attempting to qualify for eligibility under the hospital's charity care or discount payment policy and is attempting in good faith to settle an outstanding bill with the hospital by negotiating a reasonable payment plan or by making regular partial payments of a reasonable amount, the hospital shall not send the unpaid bill to any collection agency or other assignee, unless that entity has agreed to comply with this article.

(f) (1) The hospital or other assignee which is an affiliate or subsidiary of the hospital shall not, in dealing with patients eligible under the hospital's charity care or discount payment policies, use wage garnishments or liens on primary residences as a means of collecting unpaid hospital bills.

(2) A collection agency or other assignee that is not a subsidiary or affiliate of the hospital shall not, in dealing with any patient under the hospital's charity care or discount payment policies, use as a means of collecting unpaid hospital bills, any of the following:

(A) A wage garnishment, except by order of the court upon noticed motion, supported by a declaration filed by the movant identifying the basis for which it believes that the patient has the ability to make payments on the judgment under the wage garnishment, which the court shall consider in light of the size of the judgment and additional information provided by the patient prior to, or at, the hearing concerning the patient's ability to pay, including information about probable future medical expenses based on the current condition of the patient and other obligations of the patient.

(B) Notice or conduct a sale of the patient's primary residence during the life of the patient or his or her spouse, or during the period a child of the patient is a minor, or a child of the patient who has attained the age of majority is unable to take care of himself or herself and resides in the dwelling as his or her primary residence. In the event a person protected by this paragraph owns more than one dwelling, the primary residence shall be the dwelling that is the patient's current homestead, as defined in Section 704.710 of the Code of Civil Procedure or was the patient's homestead at the time of the death of a person other than the patient who is asserting the protections of this paragraph.

(3) This requirement does not preclude a hospital, collection agency, or other assignee from pursuing reimbursement and any enforcement remedy or remedies from third-party liability settlements, tortfeasors, or other legally responsible parties.

(g) Any extended payment plans offered by a hospital to assist patients eligible under the hospital's charity care policy, discount payment policy, or any other policy adopted by the hospital for assisting low-income patients with no insurance or high medical costs in settling outstanding past due hospital bills, shall be interest free. The hospital extended payment plan may be declared no longer operative after the patient's failure to make all consecutive payments due during a 90-day period. Before declaring the hospital extended payment plan no longer operative, the hospital, collection agency, or assignee shall make a reasonable attempt to contact the patient by phone and, to give notice in writing, that the extended payment plan may become inoperative, and of the opportunity to renegotiate the extended payment plan. Prior to the hospital extended payment plan being declared inoperative, the hospital, collection agency, or assignee shall attempt to renegotiate the terms of the defaulted extended payment plan, if requested by the patient. The hospital, collection agency, or assignee shall not report adverse information to a consumer credit reporting agency or commence a civil action against the patient or responsible party for nonpayment prior to the time the extended payment plan is declared to be no longer operative.

For purposes of this section, the notice and phone call to the patient may be made to the last known phone number and address of the patient.

(h) Nothing in this section shall be construed to diminish or eliminate any protections consumers have under existing federal and state debt collection laws, or any other consumer protections available under state or federal law. If the patient fails to make all consecutive payments for 90 days and fails to renegotiate a payment plan, this subdivision does not limit or alter the obligation of the patient to make payments on the obligation owing to the hospital pursuant to any contract or applicable statute from the date that the extended payment plan is declared no longer operative, as set forth in subdivision (g).

SEC. 4. Section 127430 of the Health and Safety Code is amended to read:

127430. (a) Prior to commencing collection activities against a patient, the hospital, any assignee of the hospital, or other owner of the patient debt, including a collection agency, shall provide the patient with a clear and conspicuous written notice containing both of the following:

(1) A plain language summary of the patient's rights pursuant to this article, the Rosenthal Fair Debt Collection Practices Act (Title 1.6C (commencing with Section 1788) of Part 4 of Division 3 of the Civil Code), and the federal Fair Debt Collection Practices Act (Subchapter V (commencing with Section 1692) of Chapter 41 of Title 15 of the United States Code). The summary shall include a statement that the Federal Trade Commission enforces the federal act.

The summary shall be sufficient if it appears in substantially the following form: "State and federal law require debt collectors to treat you fairly and prohibit debt collectors from making false statements or threats of violence, using obscene or profane language, and making improper communications with third parties, including your employer. Except under unusual circumstances, debt collectors may not contact you before 8:00 a.m. or after 9:00 p.m. In general, a debt collector may not give information about your debt to another person, other than your attorney or spouse. A debt collector may contact another person to confirm your location or to enforce a judgment. For more information about debt collection activities, you may contact the Federal Trade Commission by telephone at 1-877-FTC-HELP (382-4357) or online at www.ftc.gov."

(2) A statement that nonprofit credit counseling services may be available in the area.

(b) The notice required by subdivision (a) shall also accompany any document indicating that the commencement of collection activities may occur.

(c) The requirements of this section shall apply to the entity engaged in the collection activities. If a hospital assigns or sells the debt to another entity, the obligations shall apply to the entity, including a collection agency, engaged in the debt collection activity.

SEC. 5. Section 127440 of the Health and Safety Code is amended to read:

127440. The hospital shall reimburse the patient or patients any amount actually paid in excess of the amount due under this article, including interest. Interest owed by the hospital to the patient shall accrue at the rate set forth in Section 685.010 of the Code of Civil Procedure, beginning on the date payment by the patient is received by the hospital. However, a hospital is not required to reimburse the patient or pay interest if the amount due is less than five dollars ($5.00). The hospital shall give the patient a credit for the amount due for at least 60 days from the date the amount is due.

SEC. 6. Section 127444 of the Health and Safety Code is amended to read:

127444. Nothing in this article shall be construed to prohibit a hospital from uniformly imposing charges from its established charge schedule or published rates, nor shall this article preclude the recognition of a hospital's established charge schedule or published rates for purposes of applying any payment limit, interim payment amount, or other payment calculation based upon a hospital's rates or charges under the Medi-Cal program, the Medicare Program, workers' compensation, or other federal, state, or local public program of health benefits. No health care service plan, insurer, or any other person shall reduce the amount it would otherwise reimburse a claim for hospital services because a hospital has waived, or will waive, collection of all or a portion of a patient's bill for hospital services in accordance with the hospital's charity care or discount payment policy, notwithstanding any contractual provision.

CHAPTER 348

An act to amend Sections 82034, 84605, 87500, and 89511.5 of, and to add Section 87302.3 to, the Government Code, relating to the Political Reform Act of 1974.

[Approved by Governor October 8, 2007. Filed with Secretary of State October 8, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 82034 of the Government Code is amended to read:

82034. "Investment" means any financial interest in or security issued by a business entity, including, but not limited to, common stock, preferred stock, rights, warrants, options, debt instruments, and any partnership or other ownership interest owned directly, indirectly, or beneficially by the public official, or other filer, or his or her immediate family, if the business entity or any parent, subsidiary, or otherwise related business entity has an interest in real property in the jurisdiction, or does business or plans to do business in the jurisdiction, or has done business within the jurisdiction at any time during the two years prior to the time any statement or other action is required under this title. An asset shall not be deemed an investment unless its fair market value equals or exceeds two thousand dollars ($2,000). The term "investment" does not include a time or demand deposit in a financial institution, shares in a credit union, any insurance policy, interest in a diversified mutual fund registered with the Securities and Exchange Commission under the Investment Company Act of 1940 or in a common trust fund created pursuant to Section 1564 of the Financial Code, interest in a government defined-benefit pension plan, or any bond or other debt instrument issued by any government or government agency. Investments of an individual includes a pro rata share of investments of any business entity, mutual fund, or trust in which the individual or immediate family owns, directly, indirectly, or beneficially, a 10-percent interest or greater. The term "parent, subsidiary or otherwise related business entity" shall be specifically defined by regulations of the commission.

SEC. 2. Section 84605 of the Government Code is amended to read:

84605. Beginning on July 1, 2000, and for all applicable reporting periods thereafter, the following persons shall file online or electronically with the Secretary of State:

(a) Any candidate, including appellate court and Supreme Court candidates and officeholders, committee, or other persons who are required, pursuant to Chapter 4 (commencing with Section 84100), to file statements, reports, or other documents in connection with a state elective office or state measure, provided that the total cumulative reportable amount of contributions received, expenditures made, loans made, or loans received is fifty thousand dollars ($50,000) or more. In determining the cumulative reportable amount, all controlled committees, as defined by Section 82016, shall be included. For a committee subject to this title prior to January 1, 2000, the beginning date for calculating cumulative totals is January 1, 2000. For a committee that is first subject

to this title on or after January 1, 2000, the beginning date for calculating cumulative totals is the date the committee is first subject to this title. A committee, as defined in subdivision (c) of Section 82013, shall file online or electronically if it makes contributions of fifty thousand dollars ($50,000) or more in a calendar year.

(b) Any general purpose committees, as defined in Section 82027.5, including the general purpose committees of political parties, and small contributor committees, as defined in Section 85203, that cumulatively receive contributions or make expenditures totaling fifty thousand dollars ($50,000) or more to support or oppose candidates for any elective state office or state measure. For a committee subject to this title prior to January 1, 2000, the beginning date for calculating cumulative totals is January 1, 2000. For a committee that first is subject to this title on or after January 1, 2000, the beginning date for calculating cumulative totals is the date the committee is first subject to this title.

(c) Any slate mailer organization with cumulative reportable payments received or made for the purposes of producing slate mailers of fifty thousand dollars ($50,000) or more. For a slate mailer organization subject to this title prior to January 1, 2000, the beginning date for calculating cumulative totals is January 1, 2000. For a slate mailer organization that first is subject to this title on or after January 1, 2000, the beginning date for calculating cumulative totals is the date the organization is first subject to this title.

(d) Any lobbyist, lobbying firm, lobbyist employer or other persons required, pursuant to Chapter 6 (commencing with Section 86100), to file statements, reports, or other documents, provided that the total amount of any category of reportable payments, expenses, contributions, gifts, or other items is five thousand dollars ($5,000) or more in a calendar quarter.

(e) The Secretary of State shall also disclose on the Internet any late contribution or late independent expenditure report, as defined by Sections 84203 and 84204, respectively, not covered by subdivision (a), (b), or (c).

(f) Committees and other persons that are not required to file online or electronically by this section may do so voluntarily.

(g) Once a person or entity is required to file online or electronically, subject to subdivision (a), (b), (c), (d), or (f), the person or entity shall be required to file all subsequent reports online or electronically.

(h) It shall be presumed that online or electronic filers file under penalty of perjury.

(i) Persons filing online or electronically shall also continue to file required disclosure statements and reports in paper format. The paper copy shall continue to be the official filing for audit and other legal

purposes until the Secretary of State, pursuant to Section 84606, determines the system is operating securely and effectively.

(j) The Secretary of State shall maintain at all times a secured, official version of all original online and electronically filed statements and reports required by this chapter. Upon determination by the Secretary of State, pursuant to Section 84606, that the system is operating securely and effectively, this online or electronic version shall be the official version for audit and other legal purposes.

SEC. 3. Section 87302.3 is added to the Government Code, to read:

87302.3. (a) Every candidate for an elective office that is designated in a conflict of interest code shall file a statement disclosing his or her investments, business positions, interests in real property, and income received during the immediately preceding 12 months, as enumerated in the disclosure requirements for that position. The statement shall be filed with the election official with whom the candidate's declaration of candidacy or other nomination documents to appear on the ballot are required to be filed and shall be filed no later than the final filing date for the declaration or nomination documents.

(b) This section does not apply to either of the following:

(1) A candidate for an elective office designated in a conflict of interest code who has filed an initial, assuming office, or annual statement pursuant to that conflict of interest code within 60 days before the deadline specified in subdivision (a).

(2) A candidate for an elective office who has filed a statement for the office pursuant to Section 87302.6 within 60 days before the deadline specified in subdivision (a).

SEC. 4. Section 87500 of the Government Code is amended to read:

87500. Statements of economic interests required by this chapter shall be filed as follows:

(a) Statewide elected officer–one original with the agency, which shall make and retain a copy, forward a copy to the Secretary of State, and forward the original to the commission, which shall retain the original and send one copy to the Registrar-Recorder of Los Angeles County and one copy to the Clerk of the City and County of San Francisco. The commission shall be the filing officer.

(b) Candidates for statewide elective office–one original and one copy with the person with whom the candidate's declaration of candidacy is filed, who shall forward the copy to the Secretary of State and the original to the commission, which shall retain the original and send one copy to the Registrar-Recorder of Los Angeles County and one copy to the Clerk of the City and County of San Francisco. The commission shall be the filing officer.

(c) Members of the Legislature and Board of Equalization–one original with the agency, which shall make and retain a copy, forward a copy to the Secretary of State, and forward the original to the commission, which shall retain the original and send one copy to the elections official of the county that contains the largest percentage of registered voters in the election district that the officeholder represents, and one copy to the elections official of the county in which the officeholder resides. No more than one copy of each statement need be filed with the elections official of any one county. The commission shall be the filing officer.

(d) Candidates for the Legislature or the State Board of Equalization–one original and one copy with the person with whom the candidate's declaration of candidacy is filed, who shall forward the copy to the Secretary of State and the original to the commission, which shall retain the original and send one copy to the elections official of the county that contains the largest percentage of registered voters in the election district in which the candidate seeks nomination or election, and one copy to the elections official of the county in which the candidate resides. No more than one copy of each statement need be filed with the elections official of any one county. The commission shall be the filing officer.

(e) Persons holding the office of chief administrative officer and candidates for and persons holding the office of district attorney, county counsel, county treasurer, and member of the board of supervisors–one original with the county clerk, who shall make and retain a copy and forward the original to the commission, which shall be the filing officer.

(f) Persons holding the office of city manager or, if there is no city manager, the chief administrative officer, and candidates for and persons holding the office of city council member, city treasurer, city attorney, and mayor–one original with the city clerk, who shall make and retain a copy and forward the original to the commission, which shall be the filing officer.

(g) Members of the Public Utilities Commission, members of the State Energy Resources Conservation and Development Commission, planning commissioners, and members of the California Coastal Commission–one original with the agency, which shall make and retain a copy and forward the original to the commission, which shall be the filing officer.

(h) Members of the Fair Political Practices Commission–one original with the commission, which shall make and retain a copy and forward the original to the office of the Attorney General, which shall be the filing officer.

(i) Judges and court commissioners–one original with the clerk of the court, who shall make and retain a copy and forward the original to the

commission, which shall be the filing officer. Original statements of candidates for the office of judge shall be filed with the person with whom the candidate's declaration of candidacy is filed, who shall retain a copy and forward the original to the commission, which shall be the filing officer.

(j) Except as provided in subdivision (k), heads of agencies, members of boards or commissions not under a department of state government, and members of boards or commissions not under the jurisdiction of a local legislative body–one original with the agency, which shall make and retain a copy and forward the original to the code reviewing body, which shall be the filing officer. The code reviewing body may provide that the original be filed directly with the code reviewing body and that no copy be retained by the agency.

(k) Heads of local government agencies and members of local government boards or commissions, for which the Fair Political Practices Commission is the code reviewing body—one original to the agency or board or commission, which shall be the filing officer, unless, at its discretion, the Fair Political Practices Commission elects to act as the filing officer. In this instance, the original shall be filed with the agency, board, or commission, which shall make and retain a copy and forward the original to the Fair Political Practices Commission.

(*l*) Designated employees of the Legislature–one original with the house of the Legislature by which the designated employee is employed. Each house of the Legislature may provide that the originals of statements filed by its designated employees be filed directly with the commission, and that no copies be retained by that house.

(m) Designated employees under contract to more than one joint powers insurance agency and who elect to file a multiagency statement pursuant to Section 87350—the original of the statement with the commission, which shall be the filing officer, and, with each agency with which they are under contract, a statement declaring that their statement of economic interests is on file with the commission and available upon request.

(n) Members of a state licensing or regulatory board, bureau, or commission–one original with the agency, which shall make and retain a copy and forward the original to the commission, which shall be the filing officer.

(o) Persons not mentioned above–one original with the agency or with the code reviewing body, as provided by the code reviewing body in the agency's conflict of interest code.

SEC. 5. Section 89511.5 of the Government Code is amended to read:

89511.5. (a) An incumbent elected officer may utilize his or her personal funds for expenditures authorized by subdivision (b) of Section 89510 without first depositing those funds in his or her controlled committee's campaign bank account, if both of the following conditions are met:

(1) The expenditures are not campaign expenses.

(2) The treasurer of the committee is provided with a dated receipt and a written description of the expenditure.

(b) An incumbent elected officer may be reimbursed for expenditures of his or her personal funds, from either the controlled committee campaign bank account established pursuant to Section 85201 with respect to election to the incumbent term of office, or from a controlled committee campaign bank account established pursuant to Section 85201 with respect to election to a future term of office, if all of the following conditions are met:

(1) The expenditures are not campaign expenses.

(2) The incumbent elected officer, prior to reimbursement, provides the treasurer of the committee with a dated receipt and a written description of each expenditure.

(3) Reimbursement is paid within 90 days of the expenditure, in the case of a cash expenditure, or within 90 days of the end of the billing period in which it was included, in the case of an expenditure charged to a credit card or charge account.

(c) When the elected officer's controlled committee is notified that expenditures totaling one hundred dollars ($100) or more in a fiscal year have been made by the incumbent elected officer, the committee shall report, pursuant to subdivision (k) of Section 84211, the expenditures on the campaign statement for the period in which the expenditures were made and the reimbursements on the campaign statement for the period in which the reimbursements were made.

(d) If reimbursement is not paid within the time authorized by this section, the expenditure shall be reported on the campaign statement as a nonmonetary contribution received on the 90th day after the expenditure is paid, in the case of a cash expenditure, or within 90 days of the end of the billing period in which it was included, in the case of an expenditure charged to a credit card or charge account.

(e) This section shall not be construed to authorize an incumbent elected officer to make expenditures from any campaign bank account for expenses other than those expenses associated with his or her election to the specific office for which the account was established and expenses associated with holding that office.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs

that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 7. The Legislature finds and declares that this bill furthers the purposes of the Political Reform Act of 1974 within the meaning of subdivision (a) of Section 81012 of the Government Code.

CHAPTER 349

An act to amend Section 24200.5 of, to amend and renumber Section 24045.12 of, and to add Sections 21609.5 and 25503.39 to, the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor October 8, 2007. Filed with Secretary of State October 8, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 21609.5 is added to the Business and Professions Code, to read:

21609.5. (a) Except as provided in subdivision (b), no junk dealer or recycler may purchase or receive refillable stainless steel or aluminum alloy beer kegs marked with an indicia of ownership from any person or entity other than the indicated owner. For purposes of this section, "indicia of ownership" means words, symbols, or registered trademarks printed, stamped, etched, attached, or otherwise displayed on the exterior surface of the beer keg that reasonably identifies the owner.

(b) If the seller is not the indicated owner, a junk dealer or recycler may purchase or receive refillable stainless steel or aluminum alloy beer kegs only if the seller or transferor provides a receipt from the indicated owner verifying the seller's current ownership or a document indicating that the seller or transferor is authorized by the indicated owner to sell or transfer the beer kegs. Copies of these documents shall be maintained by the junk dealer or recycler as part of the written record of the transaction.

SEC. 2. Section 24045.12 of the Business and Professions Code, as amended by Section 10 of Chapter 639 of the Statutes of 1998, is amended and renumbered to read:

24045.17. Notwithstanding any other provision of law, the department may issue a general on-sale license to a person who does not operate a bona fide eating place or other public premises who meets all of the following:

(a) Has operated a catering business for not less than five years.

(b) Has operated or owned for not less than one year a bona fide eating place that had a general on-sale license.

(c) Caters over 500 events annually.

(d) Serves alcoholic beverages at no more than 25 percent of the events catered annually and has revenues from the sale of alcoholic beverages which do not constitute more than 25 percent of his or her total annual revenues.

(e) Obtains an annual permit to serve alcoholic beverages at events and obtains an authorization for each event, as specified in Section 23399.

SEC. 3. Section 24200.5 of the Business and Professions Code is amended to read:

24200.5. Notwithstanding the provisions of Section 24200, the department shall revoke a license upon any of the following grounds:

(a) If a retail licensee has knowingly permitted the illegal sale, or negotiations for the sales, of controlled substances or dangerous drugs upon his or her licensed premises. Successive sales, or negotiations for sales, over any continuous period of time shall be deemed evidence of permission. As used in this section, "controlled substances" shall have the same meaning as is given that term in Article 1 (commencing with Section 11000) of Chapter 1 of Division 10 of the Health and Safety Code, and "dangerous drugs" shall have the same meaning as is given that term in Article 2 (commencing with Section 4015) of Chapter 9 of Division 2 of this code.

(b) If the licensee has employed or permitted any persons to solicit or encourage others, directly or indirectly, to buy them drinks in the licensed premises under any commission, percentage, salary, or other profit-sharing plan, scheme, or conspiracy.

SEC. 4. Section 25503.39 is added to the Business and Professions Code, to read:

25503.39. (a) Notwithstanding any other provision of this chapter, a beer manufacturer, holder of a winegrower's license, winegrower's agent, holder of an importer's general license, distilled spirits manufacturer, holder of a distilled spirits rectifiers general license, or a distilled spirits manufacturer's agent may sponsor events promoted by, and may purchase advertising space and time from, or on behalf of, a live entertainment marketing company subject to all of the following conditions:

(1) The live entertainment marketing company is a wholly owned subsidiary of a live entertainment company that has its principal place of business in the County of Los Angeles, whose shares of stock are sold to the general public on a national stock exchange, and also owns subsidiaries that hold on-sale retail licenses.

(2) The sponsorship and the advertising space or time is purchased only in connection with the promotion of live artistic, musical, sports, or cultural entertainment events at entertainment facilities, auditoriums, or arenas that are designed and used for live artistic, musical, sports, or cultural entertainment events.

(3) (A) Any on-sale licensee operating at a venue where live artistic, musical, sports, or cultural entertainment events are performed pursuant to a sponsorship described in this section or where advertising is purchased as described in this section shall serve other brands of beer, distilled spirits, and wine in addition to any brand manufactured or distributed by the sponsoring or advertising beer manufacturer, holder of a winegrower's license, winegrower's agent, holder of an importer's general license, distilled spirits manufacturer, holder of a distilled spirits rectifiers general license, or a distilled spirits manufacturer's agent.

(B) Any on-sale retail licensee owned by the live entertainment company described in paragraph (1) shall serve other brands of beer, distilled spirits, and wine in addition to any brand manufactured or distributed by the sponsoring or advertising beer manufacturer, holder of a winegrower's license, winegrower's agent, holder of an importer's general license, distilled spirits manufacturer, holder of a distilled spirits rectifiers general license, or a distilled spirits manufacturer's agent.

(4) (A) Advertising space or time purchased pursuant to this section shall not be placed in any on-sale licensed premises where the on-sale retail licensee is owned by the live entertainment company, or any of its subsidiaries, described in paragraph (1).

(B) Sponsorship provided pursuant to this section shall not be allowed if the event or activity is held at or in any on-sale licensed premises where the on-sale retail licensee is owned by the live entertainment company, or any of its subsidiaries, described in paragraph (1).

(5) An agreement for the sponsorship of, or for the purchase of advertising space and time during, a live artistic, musical, sports, or cultural entertainment event shall not be conditioned directly or indirectly, in any way, on the purchase, sale, or distribution of any alcoholic beverage manufactured or distributed by the advertising or sponsoring beer manufacturer, holder of a winegrower's license, winegrower's agent, holder of an importer's general license, distilled spirits manufacturer, holder of a distilled spirits rectifiers general license, or a distilled spirits manufacturer's agent by the live entertainment company

described in paragraph (1) or by any on-sale retail licensee that is owned by the live entertainment company.

(b) Any sponsorship of events or purchase of advertising space or time conducted pursuant to subdivision (a) shall be conducted pursuant to a written contract entered into by the beer manufacturer, holder of a winegrower's license, winegrower's agent, holder of an importer's general license, distilled spirits manufacturer, holder of a distilled spirits rectifiers general license, or a distilled spirits manufacturer's agent and the live entertainment marketing company.

(c) Any beer manufacturer, holder of a winegrower's license, winegrower's agent, holder of an importer's general license, distilled spirits manufacturer, holder of a distilled spirits rectifiers general license, or a distilled spirits manufacturer's agent who, through coercion or other illegal means, induces, directly or indirectly, a holder of a wholesaler's license to fulfill those contractual obligations entered into pursuant to subdivision (a) shall be guilty of a misdemeanor and shall be punished by imprisonment in the county jail not exceeding six months, or by a fine in an amount equal to the entire value of the advertising space or time involved in the contract, whichever is greater, plus ten thousand dollars ($10,000), or by both imprisonment and fine. The person shall also be subject to license revocation pursuant to Section 24200.

(d) Any on-sale retail licensee who, directly or indirectly, solicits or coerces a holder of a wholesaler's license to solicit a beer manufacturer, holder of a winegrower's license, winegrower's agent, holder of an importer's general license, distilled spirits manufacturer, holder of a distilled spirits rectifiers general license, or a distilled spirits manufacturer's agent to purchase advertising time or space pursuant to subdivision (a) shall be guilty of a misdemeanor and shall be punished by imprisonment in the county jail not exceeding six months, or by a fine in an amount equal to the entire value of the advertising space or time involved in the contract, whichever is greater, plus ten thousand dollars ($10,000), or by both imprisonment and fine. The person shall also be subject to license revocation pursuant to Section 24200.

(e) For purposes of this section, "beer manufacturer" includes a holder of a beer manufacturer's license, a holder of an out-of-state beer manufacturer's certificate, or a holder of a beer and wine importer's general license.

(f) Nothing in this section shall authorize the purchasing of advertising space or time directly from, or on behalf of, any on-sale licensee.

(g) Nothing in this section shall authorize a beer manufacturer, holder of a winegrower's license, winegrower's agent, holder of an importer's general license, distilled spirits manufacturer, holder of a distilled spirits rectifiers general license, or a distilled spirits manufacturer's agent to

furnish, give, or lend anything of value to an on-sale retail licensee described in subdivision (a) except as expressly authorized by this section or any other provision of this division.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CHAPTER 350

An act to add Section 25000.2 to the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor October 8, 2007. Filed with Secretary of State October 8, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 25000.2 is added to the Business and Professions Code, to read:

25000.2. (a) For purposes of this section:

(1) "Acquire" means to purchase, receive, assume, obtain, or otherwise come into possession or control of.

(2) "Affected distribution rights" means the distribution rights to the product held by the existing beer wholesaler prior to the acquisition of the right to manufacture, import, or distribute the product by the successor beer manufacturer.

(3) "Beer manufacturer" includes any holder of a beer manufacturer's license, any holder of an out-of-state beer manufacturer's certificate, or any holder of a beer and wine importer's general license.

(4) "Cancel" means to terminate, reduce, not renew, not appoint or reappoint, or cause any of the same.

(5) "Existing beer wholesaler" means a beer wholesaler that distributes a product at the time a successor beer manufacturer acquires the rights to manufacture, import, or distribute that product.

(6) "Fair market value" includes all elements of value, including, but not limited to, goodwill.

(7) "Product" means a brand or brands of beer, as defined by Section 23006.

(8) "Successor beer manufacturer" means a beer manufacturer that acquires the rights to manufacture, import, or distribute a product.

(9) "Successor beer manufacturer's designee" means one or more distributors designated by the successor beer manufacturer to replace the existing beer wholesaler, for all or part of the existing beer wholesaler's territory, in the distribution of the product.

(b) (1) Any successor beer manufacturer that acquires the rights to manufacture, import, or distribute a product, and who cancels any of the existing beer wholesaler's rights to distribute the product, shall comply with this section.

(2) A successor beer manufacturer's designee shall comply with this section.

(c) (1) The successor beer manufacturer shall notify the existing beer wholesaler of the successor beer manufacturer's intent to cancel any of the existing beer wholesaler's rights to distribute the product.

(2) The successor beer manufacturer shall mail the notice by certified mail, return receipt requested, to the existing beer wholesaler. The successor beer manufacturer shall include in the notice the name, address, and telephone number of the successor beer manufacturer's designee or designees.

(d) The successor beer manufacturer's designee shall negotiate with the existing beer wholesaler to determine the fair market value of the affected distribution rights and, if the existing beer wholesaler and the successor beer manufacturer's designee agree to the fair market value of the affected distribution rights, shall compensate the existing beer wholesaler in the agreed amount. The successor beer manufacturer's designee and the existing beer wholesaler shall negotiate in good faith.

(e) The existing beer wholesaler shall continue to distribute the product to at least the same extent that it distributed the product immediately before the successor beer manufacturer acquired rights to the product until receipt of the payment of the compensation agreed to under subdivision (d) is made or is awarded under subdivision (f). The successor beer manufacturer and the existing beer wholesaler shall act in good faith regarding the ongoing supply and distribution of the product.

(f) If the successor beer manufacturer's designee and the existing beer wholesaler are unable to mutually agree on the fair market value of the affected distribution rights within 30 days of the existing beer wholesaler's receipt of the successor beer manufacturer's notice pursuant to subdivision (c), the successor beer manufacturer's designee or the existing beer wholesaler shall initiate arbitration against each other to determine the issue of compensation for the fair market value of the

affected distribution rights no later than 40 days after the existing beer wholesaler's receipt of the successor beer manufacturer's notice pursuant to subdivision (c). Upon submission to arbitration, the arbitration shall be the means of determining compensation to the existing beer wholesaler for the fair market value of the affected distribution rights, and the fair market value of the affected distribution rights shall be the purpose of the arbitration unless the parties agree otherwise.

(1) An arbitration held under this subdivision shall be held in California through a private arbitration services provider with at least three offices in California and a statewide roster of at least 70 neutral arbitrators, of which at least 30 have prior experience as a sole arbitrator in franchise, distribution, or related business litigation.

(2) The direct costs of the arbitration, including any fees charged by the arbitrator, shall be borne equally by the parties engaged in the arbitration. All other costs shall be paid by the party incurring them.

(3) The parties shall mutually agree on an arbitrator. If the parties cannot agree on the arbitrator, the arbitration provider shall select an impartial arbitrator.

(4) (A) No later than 20 days after receipt of a notification to arbitrate, the parties shall complete an initial exchange of all nonprivileged documents and other information relevant to the fair market value of the affected distribution rights in their possession and control, including, without limitation, copies of all documents and the names of individuals who may be called to testify at the arbitration hearing. No later than 45 days after receipt of notification to arbitrate, the parties shall complete an exchange of the names of any experts who may be called to testify at the arbitration hearing, together with each expert's report that may be introduced at the arbitration hearing.

(B) The arbitrator may modify the requirements of subparagraph (A) on a showing of good cause. The arbitrator shall permit third-party discovery and additional discovery between beer wholesalers, including depositions, which the arbitrator finds appropriate for a period of time not to exceed 90 days after receipt of a notification to arbitrate. No discovery shall be permitted against a beer manufacturer.

(5) The decision of the arbitrator shall be final and binding on the parties unless notice of appeal is filed, within 10 business days after service of the arbitration award, with the superior court of the county in which the hearing was held. Upon filing of the appeal, the court shall review the arbitration award for errors of fact or law by determining whether the award is supported by the sufficiency of the evidence presented at the arbitration. This subdivision shall further permit any other appeal or review that is authorized by the California Arbitration

Act (Title 9 (commencing with Section 1280) of Part 3 of the Code of Civil Procedure).

(6) The arbitrator's award shall be monetary only and shall not enjoin or compel conduct.

(7) The arbitration hearing shall conclude not more than 180 days after receipt of a notification to arbitrate, unless the time period is extended by mutual agreement of the parties or by the arbitrator.

(8) The arbitrator shall render a decision not later than 15 days after the conclusion of the arbitration unless this time period is extended by mutual agreement of the parties or by the arbitrator.

(9) A party who fails to participate in the arbitration hearings waives all rights the party would have had in the arbitration and is considered to have consented to the determination of the arbitrator.

(10) The Legislature finds and declares that several unique factors in combination warrant the Legislature authorizing limited mandatory arbitration between an existing beer wholesaler and a successor beer manufacturer's designee solely to determine the issue of compensation for the fair market value of the affected distribution rights:

(A) On the issue of the fair market value of the affected distribution rights, the parties are sophisticated and in an equal position in their knowledge of this legal issue and understand the law and their legal rights, including their jury trial rights.

(B) The parties desire a mandatory arbitration provision to resolve the question of compensation for the fair market value of the affected distribution rights if the parties are not able to reach a mutual settlement so that product distribution can be continued in an orderly manner and the determination of compensation can be made in a timely manner.

(C) The state's regulatory interest in maintaining orderly markets for the safe and efficient transportation, distribution, and sale of beer within the state warrants the statutory authorization for mandatory arbitration as provided in this section.

(g) If the existing beer wholesaler does not receive payment of the compensation under subdivision (d) or (f) not later than 10 business days after the date of the settlement or service of the arbitration award, and if there is no appeal or review filed under paragraph (5) of subdivision (f), the existing beer wholesaler shall remain the distributor of the product in the existing beer wholesaler's territory to at least the same extent that the existing beer wholesaler distributed the product immediately before the successor beer manufacturer acquired rights to the product, and the existing beer wholesaler is not entitled to the settlement or arbitration award.

(h) Nothing in this section shall be construed to limit or prohibit good faith settlements voluntarily entered into by the parties subsequent to the successor beer manufacturer's notice pursuant to subdivision (c).

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CHAPTER 351

An act to amend Section 61384 of the Food and Agricultural Code, relating to milk.

[Approved by Governor October 8, 2007. Filed with Secretary of State October 8, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 61384 of the Food and Agricultural Code is amended to read:

61384. (a) The sale by any retailer, wholesale customer, manufacturer, or distributor, including any producer-distributor or nonprofit cooperative association acting as a distributor, of milk, cream, or any dairy product at less than cost is an unlawful practice. This subdivision applies to finished products, and does not apply to sales of bulk milk between handlers.

(b) For the purposes of this section, the following terms have the following meanings:

(1) "Cost," as applied to manufacturers and distributors, means the total consideration paid or exchanged for raw product, plus the total expense incurred for manufacturing, processing, handling, sale, and delivery.

(2) "Cost," as applied to wholesale customers, means the invoice price charged to the wholesale customer, or the expense of replacement, whichever is lower, plus the wholesale customer's cost of doing business.

(3) "Cost of doing business," as applied to wholesale customers, means a wholesale customer's total operating expense divided by the customer's total sales income.

(4) (A) Except as provided in subparagraph (B), "total consideration paid or exchanged for raw product," in the case of market milk or market cream used in the manufacture of class 1, 2, and 3 products, means the department's current announced regulated minimum price of the market milk or market cream, payable by handlers to producers, except as provided in Section 62708.5.

(B) Notwithstanding subparagraph (A), in situations involving sales on a bid basis to public agencies or institutions, the definition in subparagraph (A) shall only apply to market milk or market cream that is utilized for class 1 purposes, as those purposes are defined in Chapter 2 (commencing with Section 61801).

(c) Proof of cost, based on audits or surveys conducted in accordance with generally accepted accounting principles as defined by the American Institute of Certified Public Accountants and the Financial Accounting Standards Board, and modified, if necessary, to satisfy the requirements of this section, shall establish a rebuttable presumption of that cost at the time of the transaction of any sale. This presumption is a presumption affecting the burden of proof, but it does not apply in a criminal action.

(d) Nothing in this section shall be deemed to prohibit any of the following activities:

(1) The meeting, in good faith, of a lawful competitive price or a lawful competitive condition.

(2) A distributor's action in making conditional sales of equipment or other property, extending credit for merchandise purchased, or paying a customer's obligations not otherwise prohibited by this chapter to another distributor in connection with the transfer of the customer's business from the latter to the former.

(e) The secretary shall establish, by regulation pursuant to Section 61341, the procedures which shall be used to make the determinations required by this section, including the following:

(1) Any modifications to the generally accepted accounting principles described in subdivision (c) necessary to satisfy the requirements of this section.

(2) Procedures for evaluating efforts to meet lawful competitive prices or conditions.

(3) Other procedures necessary or appropriate to facilitate the application or enforcement of this section.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the

definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CHAPTER 352

An act to amend Sections 90011, 90012, 90013, 90014, 90016, 90027, 90040, 90047, and 90073 of the Education Code, relating to the California State University.

[Approved by Governor October 8, 2007. Filed with Secretary of State October 8, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 90011 of the Education Code is amended to read:

90011. (a) The following terms wherever used or referred to in this article, or in any indenture entered into pursuant to this article, shall have the following meanings, respectively, unless a different meaning appears from the context:

(1) "Board" means the Trustees of the California State University.

(2) "Bonds" or "revenue bonds" means the written evidence of any obligation, other than revenue bond anticipation notes, issued by the board, payment of which is secured by a pledge of revenues or any part of revenues, as provided in this article, in order to obtain funds with which to carry out the purposes of this article, irrespective of the form of the obligations.

(3) The "holder of bonds" or "bondholder" or any similar term means any person who shall be the bearer of any outstanding revenue bond or bond registered to bearer or not registered or the registered owner of any outstanding revenue bond or bond that shall at the time be registered other than to the bearer.

(4) "Indenture" means an agreement entered into by the board pursuant to which revenue bonds are issued, regardless of whether the agreement is expressed in the form of a resolution of the board or by other instrument.

(5) "Notes" and "revenue bond anticipation notes" mean the written evidence of any obligation, including commercial paper notes, issued by the board, pursuant to Section 90013, in anticipation of the sale of revenue bonds, for the purpose of obtaining funds to carry out the purposes of this article.

(6) "Person" includes any individual, firm, corporation, association, copartnership, trust, business trust, receiver, trustee, or conservator for any thereof, but does not include this state or any public corporation, political subdivision, city, county, district, or any agency thereof or of this state.

(7) "Project" means any one or more dormitories or other housing facilities, boarding facilities, student union or activity facilities, vehicle parking facilities, alternative transportation programs, or any other auxiliary or supplementary facilities for individual or group accommodation, owned or operated or authorized to be acquired, constructed, furnished, equipped, and operated by the board for use by students, faculty members, or other employees of any one or more campuses of the California State University, or a combination of those facilities, which may include facilities already completed and facilities authorized for future completion, or any other facilities designated by the board as a project in providing for the issuance of revenue bonds or notes.

(8) "Revenues" mean and include any and all fees, rates, rentals, and other charges received or receivable in connection with, and any and all other incomes and receipts of whatever kind and character derived by, the board from the operation of, or arising from, a project, including any revenue that may have been, or may be, impounded or deposited in any fund in the State Treasury created by this article or in any other fund or account pursuant to law for the security of any notes or bonds issued hereunder, or for the purpose of providing for the payment thereof, or the interest thereon.

(9) "State university" and "campus of the California State University" means any of the institutions included within the California State University, as listed in Section 89001.

(b) As used in this article:

(1) The present tense includes the past and future tenses, and the future tense includes the present tense.

(2) The masculine gender includes the feminine and neuter.

(3) The singular number includes the plural, and the plural includes the singular.

(4) "Shall" is mandatory, and "may" is permissive.

SEC. 2. Section 90012 of the Education Code is amended to read:

90012. The board, for the purposes of this article, has power and is hereby authorized, in addition to and amplification of all other powers conferred upon the board by the Constitution of the State of California or by any statute of the State of California:

(a) To acquire, subject to the Property Acquisition Law (Part 11 (commencing with Section 15850) of Division 3 of Title 2 of the

Government Code), by grant, purchase, gift, devise, or lease, and to hold and use, any real or personal property necessary, convenient, or useful for the carrying on of any of its powers pursuant to this article.

(b) To construct, operate, and control any project.

(c) To fix rates, rents, or other charges for the use of any project acquired, constructed, equipped, furnished, operated or maintained by the board, or for services rendered in connection therewith, and to alter, change, or modify the same at its pleasure, subject to any contractual obligation that may be entered into by the board with respect to the fixing of rates, rents, or charges.

(d) To enter into covenants to increase rates or charges from time to time as may be necessary pursuant to any contract or agreement with the holders of any bonds of the board.

(e) At any time and from time to time, to issue revenue bonds in order to raise funds for the purpose of establishing any project or of acquiring lands for any project, or of acquiring, constructing, improving, equipping, furnishing, financing, or refinancing any project, including payment of principal and interest on revenue bond anticipation notes, or for any combination of these purposes, which bonds may be secured as provided in this article.

(f) At any time, and from time to time, in connection with the financing or refinancing of any project, to loan or advance proceeds of revenue bonds or revenue bond anticipation notes to any person or state or local governmental entity, and to enter into loan agreements, leases, installation purchase agreements, conditional sales contracts, and similar financing instruments with the recipient of that loan or advance, all upon terms and conditions determined by the board.

(g) At any time and from time to time, to issue revenue bond anticipation notes pursuant to Section 90013.

(h) To adopt rules and regulations as may be necessary to enable the board to exercise the powers and to perform the duties conferred or imposed upon the board by this article.

(i) Nothing contained in this section or elsewhere in this article shall be construed directly or by implication to be in derogation of or in limitation of powers conferred upon or existing in the board by the Constitution or statutes of this state.

SEC. 3. Section 90013 of the Education Code is amended to read:

90013. (a) The board may issue revenue bond anticipation notes, in anticipation of the sale of revenue bonds. Before issuing any of these notes, the board shall, by resolution, authorize their issuance, declare the purpose for which the proceeds of the notes shall be expended, and specify the maximum amount of notes to be issued for that purpose.

(b) Revenue bond anticipation notes shall bear interest at the fixed or variable rate or rates determined by the board, not exceeding 12 percent per annum, payable in the time, form, and manner set forth in the indenture for the notes, and shall mature on the date or dates determined by the board and set forth in the resolution or indenture authorizing their issuance.

(c) The proceeds from the sale of notes shall be used only for the purposes for which the proceeds of the sale of bonds may be used in anticipation whereof the notes are issued.

(d) All notes issued, including renewal notes, and the interest thereon shall be payable from the proceeds of the sale of the bonds, the revenues of the project, any appropriations made for that purpose or all of these sources, and not otherwise, except that if the sale of the bonds has not occurred prior to the maturity of the notes issued in anticipation thereof, the board may issue renewal notes to pay the notes then maturing. No renewal notes shall be issued after the sale of the bonds in anticipation of which the original note was issued.

(e) Revenue bond anticipation notes may be secured by a pledge of, and lien upon, the proceeds of the sale of bonds, the revenues of the project, and any other legally available funds.

(f) A resolution or indenture authorizing the issuance of revenue bond anticipation notes may include provisions deemed necessary or advisable by the board for the security of the notes issued thereunder, and may include any and all provisions authorized to be included in indentures by this article.

SEC. 4. Section 90014 of the Education Code is amended to read:

90014. Notes authorized to be issued under this article shall be sold by the Treasurer, for cash, in the manner that the Treasurer shall be directed by a resolution requesting the sale adopted by the board. Notes in the form of commercial paper notes shall be sold in the manner specified in the indenture for the notes.

SEC. 5. Section 90016 of the Education Code is amended to read:

90016. The board shall issue revenue bonds and revenue bond anticipation notes in its name and as its obligation, but no bond or note issued or sold pursuant to this article shall be or become a lien, charge, or liability against the State of California or against the board or against the property or funds of either, except, in the case of revenue bonds, to the extent of the pledge of revenues or part of revenues of the project, as may be provided by the indenture pursuant to which revenue bonds are issued, and, in the case of notes, to the extent of the pledge of revenues of the project and proceeds of the sale of bonds, as may be provided in the resolution or indenture authorizing the issuance of the notes. Each of these bonds and notes issued by the board shall contain

a recital on the face thereof, stating that neither the payment of the principal nor any part thereof, nor any interest thereon, constitutes a debt, liability, or obligation of the State of California.

SEC. 6. Section 90027 of the Education Code is amended to read:

90027. An indenture may include a clause relating to the bonds issued thereunder requiring the board to fix, prescribe, and collect rates, rentals, or other charges in connection with the services and facilities furnished from the project acquired, constructed, or purchased from part or all of the proceeds of the bonds, or from the revenues securing the bonds, sufficient to pay the principal of and interest on the bonds as they become due and payable, together with additional sums that may be required for any fund created by this article, for the further security of the bonds or as a depreciation charge or other charge in connection with the project.

SEC. 7. Section 90040 of the Education Code is amended to read:

90040. Bonds shall bear interest at a fixed or variable rate of not to exceed 12 percent per annum, payable in the time, form, and manner set forth in the indenture for the bonds.

SEC. 8. Section 90047 of the Education Code is amended to read:

90047. When the bonds authorized to be issued under this article are duly executed, they shall be sold by the Treasurer, for cash, in those parcels and numbers as the Treasurer shall be directed by a resolution adopted by the board. Before offering any of the bonds for sale, the Treasurer shall detach therefrom all coupons, if any, that have matured or will mature before the day fixed for the sale. Bonds in the form of commercial paper notes shall be sold in the manner specified in the indenture for the bonds.

SEC. 9. Section 90073 of the Education Code is amended to read:

90073. The proceeds from the sale of all bonds and notes authorized under this article, except those proceeds used to redeem outstanding bonds or notes, shall be deposited forthwith by the Treasurer, on order of the Controller, in the State Treasury to the credit of a fund to be designated as the California State University Dormitory Construction Fund, which is hereby created. The money in the California State University Dormitory Construction Fund shall be expended, pursuant to claims filed by the board with the Controller, for the purposes authorized by this article, or as provided in the indenture or notes, and for any other purposes, subject to the restrictions provided by law, by the notes, or by the indenture, as may be authorized by resolution of the board. In carrying out these purposes, the money may be used to make loans to builders and developers for the establishment, acquisition, or construction of projects, to acquire leasehold interests in projects, or otherwise to provide funds for projects in any manner that the board may authorize by resolution. Moneys required to meet the costs of acquisition,

construction, improvement, equipment, furnishing, financing, or refinancing of any project authorized by this article, and all costs incident thereto, shall be paid from the California State University Dormitory Construction Fund as provided in this article upon claim filed by the board and after audit by the Controller in the manner provided by law and upon warrants drawn by the Controller.

SEC. 10. On or before January 1, 2012, the Trustees of the California State University shall report to the Director of Finance, the Legislative Analyst, and to the chairpersons of the appropriate policy and fiscal committees of the Legislature on the specific actions taken to implement the act that adds this section and an assessment of the costs and benefits of those actions. The Legislative Analyst is requested to review and comment on this report as part of its annual analysis of the Budget Bill.

CHAPTER 353

An act to amend Sections 24214, 24216, and 24216.5 of, and to amend and repeal Section 24216.6 of, the Education Code, relating to state teachers' retirement.

[Approved by Governor October 8, 2007. Filed with Secretary of State October 8, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 24214 of the Education Code, as amended by Section 28 of Chapter 655 of the Statutes of 2006, is amended to read:

24214. (a) A member retired for service under this part may perform the activities identified in subdivision (a) or (b) of Section 22119.5 as an employee of an employer, as an employee of a third party, or as an independent contractor within the California public school system, but the member may not make contributions to the retirement fund or accrue service credit based on compensation earned from that service. The employer shall maintain accurate records of the earnings of the retired member and report those earnings monthly to the system and retired member as described in Section 22461.

(b) If a member is retired for service under this part, the rate of pay for service performed by that member as an employee of the employer, as an employee of a third party, or as an independent contractor may not be less than the minimum, nor exceed that paid by the employer to other employees performing comparable duties.

(c) A member retired for service under this part may not be required to reinstate for performing the activities identified in subdivision (a) or (b) of Section 22119.5 as an employee of an employer, as an employee of a third party, or as an independent contractor within the California public school system.

(d) A member retired for service under this part may earn compensation for performing activities identified in subdivision (a) or (b) of Section 22119.5 in any one school year up to the limitation specified in subdivision (f) as an employee of an employer, as an employee of a third party, or an independent contractor, within the California public school system, without a reduction in his or her retirement allowance.

(e) (1) The postretirement compensation limitation provisions set forth in this section are not applicable to compensation earned by a member retired for service under this part who has returned to work after the date of retirement and, for a period of at least 12 consecutive months, has not performed the activities identified in subdivision (a) or (b) of Section 22119.5 as an employee of an employer, as an employee of a third party, or as an independent contractor within the California public school system. For the purpose of this paragraph, the period of 12 consecutive months begins from the effective date of the member's most recent retirement.

(2) The postretirement compensation limitation provisions set forth in this section are not applicable to compensation earned for the performance of the activities described in subdivision (a) for which the employer is not eligible to receive state apportionment or to compensation that is not creditable pursuant to Section 22119.2.

(f) The limitation that shall apply to the compensation for performance of the activities identified in subdivision (a) or (b) of Section 22119.5 by a member retired for service under this part either as an employee of an employer, an employee of a third party, or as an independent contractor shall, in any one school year, be an amount calculated by the board each July 1 equal to twenty-two thousand dollars ($22,000) adjusted by the percentage change in the average compensation earnable of active members of the Defined Benefit Program, as determined by the system, from the 1998–99 fiscal year to the fiscal year ending in the previous calendar year.

(g) If a member retired for service under this part earns compensation for performing activities identified in subdivision (a) or (b) of Section 22119.5 in excess of the limitation specified in subdivision (f), as an employee of an employer, as an employee of a third party, or as an independent contractor, within the California public school system, and if that compensation is not exempt from that limitation under subdivision

(e) or any other provisions of law, the member's retirement allowance shall be reduced by the amount of the excess compensation. The amount of the reduction may be equal to the monthly allowance payable but shall not exceed the amount of the annual allowance payable under this part for the fiscal year in which the excess compensation was earned.

(h) The amendments to this section enacted during the 1995–96 Regular Session shall be deemed to have become operative on July 1, 1996.

(i) This section shall remain in effect only until June 30, 2009, and shall be repealed on January 1, 2010, unless a later enacted statute deletes or extends that date.

SEC. 2. Section 24214 of the Education Code, as amended by Section 29 of Chapter 655 of the Statutes of 2006, is amended to read:

24214. (a) A member retired for service under this part may perform the activities identified in subdivision (a) or (b) of Section 22119.5 as an employee of an employer, as an employee of a third party, or as an independent contractor within the California public school system, but the member may not make contributions to the retirement fund or accrue service credit based on compensation earned from that service. The employer shall maintain accurate records of the earnings of the retired member and report those earnings monthly to the system and retired member as described in Section 22461.

(b) If a member is retired for service under this part, the rate of pay for service performed by that member as an employee of the employer, as an employee of a third party, or as an independent contractor within the California public school system may not be less than the minimum, nor exceed that paid by the employer to other employees performing comparable duties.

(c) A member retired for service under this part may not be required to reinstate for performing the activities identified in subdivision (a) or (b) of Section 22119.5 as an employee of an employer, as an employee of a third party, or as an independent contractor within the California public school system.

(d) A member retired for service under this part may earn compensation for performing activities identified in subdivision (a) or (b) of Section 22119.5 in any one school year up to the limitation specified in subdivision (f) as an employee of an employer, as an employee of a third party, or an independent contractor, within the California public school system, without a reduction in his or her retirement allowance.

(e) The postretirement compensation limitation provisions set forth in this section are not applicable to compensation earned for the performance of the activities described in subdivision (a) for which the

employer is not eligible to receive state apportionment or to compensation that is not creditable pursuant to Section 22119.2.

(f) The limitation that shall apply to the compensation for performance of the activities identified in subdivision (a) or (b) of Section 22119.5 by a member retired for service under this part either as an employee of an employer, an employee of a third party, or as an independent contractor shall, in any one school year, be an amount calculated by the board each July 1 equal to twenty-two thousand dollars ($22,000) adjusted by the percentage change in the average compensation earnable of active members of the Defined Benefit Program, as determined by the system, from the 1998–99 fiscal year to the fiscal year ending in the previous calendar year.

(g) If a member retired for service under this part earns compensation for performing activities identified in subdivision (a) or (b) of Section 22119.5 in excess of the limitation specified in subdivision (f), as an employee of an employer, as an employee of a third party, or as an independent contractor, within the California public school system, the member's retirement allowance shall be reduced by the amount of the excess compensation. The amount of the reduction may be equal to the monthly allowance payable but may not exceed the amount of the annual allowance payable under this part for the fiscal year in which the excess compensation was earned.

(h) The language of this section derived from the amendments to the section of this number added by Chapter 394 of the Statutes of 1995, enacted during the 1995–96 Regular Session, is deemed to have become operative on July 1, 1996.

(i) This section shall become operative on July 1, 2009.

SEC. 3. Section 24216 of the Education Code is amended to read:

24216. (a) (1) A member retired for service under this part who is appointed as a trustee or administrator by the Superintendent pursuant to Section 41320.1, or who is appointed as a trustee pursuant to the Immediate Intervention/Underperforming Schools Program (Article 3 (commencing with Section 52053) of Chapter 6.1 of Part 28) or the High Priority Schools Grant Program (Article 3.5 (commencing with Section 52055.600) of Chapter 6.1 of Part 28), or a member retired for service who is assigned by a county superintendent of schools pursuant to Article 2 (commencing with Section 42122) of Chapter 6 of Part 24, shall be exempt from subdivisions (d) and (f) of Section 24214 for a maximum period of two years.

(2) The period of exemption shall commence on the date the member retired for service is appointed or assigned and shall end no more than two calendar years from that date, after which the limitation specified in subdivisions (d) and (f) of Section 24214 shall apply.

(3) An exemption under this subdivision shall be granted by the system providing that the Superintendent or the county superintendent of schools submits documentation required by the system to substantiate the eligibility of the member retired for service for an exemption under this subdivision.

(b) (1) A member retired for service under this part who is employed by an employer to perform creditable service in an emergency situation to fill a vacant administrative position requiring highly specialized skills shall be exempt from the provisions of subdivisions (d) and (f) of Section 24214 for creditable service performed up to one-half of the full-time position, if the vacancy occurred due to circumstances beyond the control of the employer.

(2) The period of exemption shall commence on the date the member retired for service is appointed or assigned and shall end no more than two calendar years from that date, after which the limitation specified in subdivisions (d) and (f) of Section 24214 shall apply.

(3) An exemption under this subdivision shall be granted by the system subject to the following conditions:

(A) The recruitment process to fill the vacancy on a permanent basis is expected to extend over several months.

(B) The employment is reported in a public meeting of the governing body of the employer.

(C) The employer submits documentation required by the system to substantiate the eligibility of the member retired for service for an exemption under this subdivision.

(c) This section does not apply to any person who has received additional service credit pursuant to Section 22715 or 22716.

(d) A person who has received additional service credit pursuant to Section 22714 or 22714.5 shall be ineligible for one year from the effective date of retirement for the exemption provided in this section for service performed in any school district, community college district, or county office of education in the state.

(e) This section shall remain in effect only until June 30, 2009, and shall be repealed on January 1, 2010, unless a later enacted statute deletes or extends that date.

SEC. 4. Section 24216.5 of the Education Code is amended to read:

24216.5. (a) The compensation earned by a member who retired for service under this part shall be exempt from subdivisions (d), (f), and (g) of Section 24214, if all of the following conditions are met:

(1) The member retired for service with an effective date on or before January 1, 2006.

(2) The member retired for service is employed by a school district to provide any of the following:

(A) Direct classroom instruction to pupils enrolled in kindergarten or any grades 1 to 12, inclusive.

(B) Support and assessment for new teachers through the Beginning Teacher Support and Assessment program authorized by Section 44279.1.

(C) Support to individuals completing student teaching assignments.

(D) Support to individuals participating in the following programs:

(i) Pre-Internship Teaching Program authorized pursuant to Article 5.6 (commencing with Section 44305) of Chapter 2 of Part 25.

(ii) Alternative certification programs authorized pursuant to Article 11 (commencing with Section 44380) of Chapter 2 of Part 25.

(iii) School Paraprofessional Teacher Training Program established pursuant to Article 12 (commencing with Section 44390) of Chapter 2 of Part 25.

(E) Instruction and pupil services provided to pupils enrolled in special education programs authorized pursuant to Part 30 (commencing with Section 56000) of Division 4 of Title 2.

(F) Instruction to pupils enrolled in English language learner programs authorized pursuant to Chapter 3 (commencing with Section 300), Chapter 4 (commencing with Section 400), and Chapter 6 (commencing with Section 430) of Part 1 of Division 1.

(3) All members retired for service whose employment with a school district meets the conditions specified in this section shall be treated as a distinct class of temporary employees within the existing bargaining unit whose service may not be included in computing the service required as a prerequisite to attainment of or eligibility for classification as a permanent employee of a school district. The compensation for service performed by this class of employees shall be established in accordance with subdivision (b) of Section 24214 and agreed to in the collective bargaining agreement between the employing school district and the exclusive representative for the existing bargaining unit within which these temporary employees of the school district are treated as a distinct class.

(4) The employing school district submits documentation required by the system to substantiate the eligibility of the temporary employment of a member retired for service for the exemption under this subdivision.

(b) A school district that employs a member retired for service pursuant to this section shall maintain accurate records of the retired member's compensation earned and shall report that compensation monthly to the system regardless of the method of payment or the source of funds from which the compensation is paid.

(c) This section does not apply to the compensation earned for creditable service performed by a member retired for service for a community college district.

(d) This section shall remain in effect only until June 30, 2009, and shall be repealed as of January 1, 2010, unless a later enacted statute deletes or extends that date.

SEC. 5. Section 24216.6 of the Education Code is amended to read:

24216.6. (a) The compensation earned by a member who retired for service under this part shall be exempt from subdivisions (d), (f), and (g) of Section 24214, if all of the following conditions are met:

(1) The member retired for service with an effective date on or before January 1, 2006.

(2) The member retired for service is employed by a school district to provide direct remedial instruction to pupils in grades 2 to 12, inclusive. "Remedial instruction" means the programs specified in Sections 37252 and 37252.2.

(3) All members retired for service whose employment with a school district meets the conditions specified in this section shall be treated as a distinct class of temporary employees within the existing bargaining unit whose service may not be included in computing the service required as a prerequisite to attainment of or eligibility for classification as a permanent employee of a school district. The compensation for service performed by this class of employees shall be established in accordance with subdivision (b) of Section 24214 and agreed to in the collective bargaining agreement between the employing school district and the exclusive representative for the existing bargaining unit within which these temporary employees of the school district are treated as a distinct class.

(4) The employing school district submits documentation required by the system to substantiate the eligibility of the temporary employment of a member retired for service for the exemption under this subdivision. That documentation shall be on a properly executed form provided by the system.

(b) A school district that employs a member retired for service pursuant to this section shall maintain accurate records of the retired member's compensation earned and shall report that compensation monthly to the system regardless of the method of payment or the source of funds from which the compensation is paid.

(c) This section does not apply to the compensation earned for creditable service performed by a member retired for service for a county office of education or a community college district.

(d) This section shall remain in effect only until June 30, 2009, and shall be repealed as of January 1, 2010, unless a later enacted statute deletes or extends that date.

CHAPTER 354

An act to amend Sections 6501, 6520, 6530, 6533, 6534, 6536, 6561, 6712, 6738, 6770, 6770.6, 6775.1, 6799, 7058, 7071.6, 7071.9, 8505.2, 8505.3, 8505.4, 8506.1, 8507, 8509, 8510, 8512, 8525, 8551.5, 8565.5, 8591, 8592, 8610, 8611, 8612, 8617, 8776, 8776.7, 8780.1, 8805, 9812.5, 9830.5, 9831, 9832.5, 9841, 9847.5, 9848, 9849, 9851, 9853, 9855.7, 9855.8, 9855.9, 9860, 9862.5, 9863, 9873, 19008.1, 19129, 19132, and 19170.5 of, to add Sections 101.7 and 9884.20 to, to repeal Section 8505.15 of, and to repeal and add Section 8712 of, the Business and Professions Code, and to amend Section 60.1 of the Probate Code, relating to professions and vocations.

[Approved by Governor October 8, 2007. Filed with Secretary of State October 8, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 101.7 is added to the Business and Professions Code, to read:

101.7. (a) Notwithstanding any other provision of law, boards shall meet at least three times each calendar year. Boards shall meet at least once each calendar year in northern California and once each calendar year in southern California in order to facilitate participation by the public and its licensees.

(b) The director at his or her discretion may exempt any board from the requirement in subdivision (a) upon a showing of good cause that the board is not able to meet at least three times in a calendar year.

(c) The director may call for a special meeting of the board when a board is not fulfilling its duties.

SEC. 2. Section 6501 of the Business and Professions Code is amended to read:

6501. As used in this chapter, the following terms have the following meanings:

(a) "Act" means this chapter.

(b) "Bureau" means the Professional Fiduciaries Bureau within the Department of Consumer Affairs, established pursuant to Section 6510.

(c) "Client" means an individual who is served by a professional fiduciary.

(d) "Department" means the Department of Consumer Affairs.

(e) "Licensee" means a person who is licensed under this chapter as a professional fiduciary.

(f) "Professional fiduciary" means a person who acts as a conservator or guardian for two or more persons at the same time who are not related to the professional fiduciary or to each other by blood, adoption, marriage, or registered domestic partnership. "Professional fiduciary" also means a person who acts as a trustee, agent under a durable power of attorney for health care, or agent under a durable power of attorney for finances, for more than three people or more than three families, or a combination of people and families that totals more than three, at the same time, who are not related to the professional fiduciary by blood, adoption, marriage, or registered domestic partnership. "Professional fiduciary" does not include any of the following:

(1) A trust company, as defined in Section 83 of the Probate Code.

(2) An FDIC-insured institution, or its holding companies, subsidiaries, or affiliates. For the purposes of this paragraph, "affiliate" means any entity that shares an ownership interest with, or that is under the common control of, the FDIC-insured institution.

(3) A person employed by an entity described in paragraph (1) or (2) who is acting in the course and scope of that employment.

(4) Any public officer or public agency, including the public guardian, public conservator, or other agency of the State of California or of a county of California, when that public officer or public agency is acting in the course and scope of official duties, or any regional center for persons with developmental disabilities as defined in Section 4620 of the Welfare and Institutions Code.

(5) Any person whose sole activity as a professional fiduciary is as a broker-dealer, broker-dealer agent, investment adviser, or investment adviser representative registered and regulated under the Corporate Securities Law of 1968 (Division 1 (commencing with Section 25000) of Title 4 of the Corporations Code), the Investment Advisers Act of 1940 (15 U.S.C. Sec. 80b-1 et seq.), or the Securities Exchange Act of 1934 (15 U.S.C. Sec. 78a et seq.), or involves serving as a trustee to a company regulated by the Securities and Exchange Commission under the Investment Company Act of 1940 (15 U.S.C. Sec. 80a-1 et seq.).

(g) "Committee" means the Professional Fiduciaries Advisory Committee, as established pursuant to Section 6511.

SEC. 3. Section 6520 of the Business and Professions Code is amended to read:

6520. The bureau shall adopt, by regulation, a Professional Fiduciaries Code of Ethics. The Professional Fiduciaries Code of Ethics shall be consistent with all statutory requirements, as well as requirements developed by the courts and the Judicial Council. The Professional Fiduciaries Code of Ethics shall be provided electronically on the bureau's Internet Web site and to persons who request an application

for licensure. The bureau may, by regulation, amend the Professional Fiduciaries Code of Ethics from time to time, as it deems necessary, provided that no amendment shall be effective with regard to a licensee until the licensee's next annual license renewal cycle, as specified in subdivision (a) of Section 6541, is completed. Any amendment to the Professional Fiduciaries Code of Ethics shall be included in the license renewal materials sent to a licensee.

SEC. 4. Section 6530 of the Business and Professions Code is amended to read:

6530. (a) On and after January 1, 2009, no person shall act or hold himself or herself out to the public as a professional fiduciary unless that person is licensed as a professional fiduciary in accordance with the provisions of this chapter.

(b) This section does not apply to a person licensed as an attorney under the State Bar Act (Chapter 4 (commencing with Section 6000)).

(c) This section does not apply to a person licensed as, and acting within the scope of practice of, a certified public accountant pursuant to Chapter 1 (commencing with Section 5000) of Division 3.

(d) This section does not apply to a person enrolled as an agent to practice before the Internal Revenue Service who is acting within the scope of practice pursuant to Part 10 of Title 31 of the Code of Federal Regulations.

SEC. 5. Section 6533 of the Business and Professions Code is amended to read:

6533. In order to meet the qualifications for licensure as a professional fiduciary a person shall meet all of the following requirements:

(a) Be at least 21 years of age.

(b) Be a United States citizen, or be legally admitted to the United States.

(c) Have not committed any acts that are grounds for denial of a license under Section 480 or 6536.

(d) Submit fingerprint images as specified in Section 6533.5 in order to obtain criminal offender record information.

(e) Have completed the required prelicensing education described in Section 6538.

(f) Have passed the licensing examination administered by the bureau pursuant to Section 6539.

(g) Have at least one of the following:

(1) A baccalaureate degree of arts or sciences from a college or university accredited by a nationally recognized accrediting body of colleges and universities or a higher level of education.

(2) An associate of arts or sciences degree from a college or university accredited by a nationally recognized accrediting body of colleges and

universities, and at least three years of experience working as a professional fiduciary or working with substantive fiduciary responsibilities for a professional fiduciary, public agency, or financial institution acting as a conservator, guardian, trustee, personal representative, or agent under a power of attorney.

(3) Experience of not less than five years, prior to July 1, 2012, working as a professional fiduciary or working with substantive fiduciary responsibilities for a professional fiduciary, public agency, or financial institution acting as a conservator, guardian, trustee, personal representative, or agent under a power of attorney.

(h) Agree to adhere to the Professional Fiduciaries Code of Ethics and to all statutes and regulations.

(i) Consent to the bureau conducting a credit check on the applicant.

(j) File a completed application for licensure with the bureau on a form provided by the bureau and signed by the applicant under penalty of perjury.

(k) Submit with the license application a nonrefundable application fee, as specified in this chapter.

SEC. 6. Section 6534 of the Business and Professions Code is amended to read:

6534. (a) The bureau shall maintain the following information in each licensee's file, shall make this information available to a court for any purpose, including the determination of the appropriateness of appointing or continuing the appointment of, or removing, the licensee as a conservator, guardian, trustee, or personal representative, and shall otherwise keep this information confidential, except as provided in subdivisions (b) and (c) of this section:

(1) The names of the licensee's current conservatees or wards and the trusts or estates currently administered by the licensee.

(2) The aggregate dollar value of all assets currently under the licensee's supervision as a professional fiduciary.

(3) The licensee's current addresses and telephone numbers for his or her place of business and place of residence.

(4) Whether the licensee has ever been removed as a fiduciary by a court for breach of trust committed intentionally, with gross negligence, in bad faith, or with reckless indifference, or the licensee has demonstrated a pattern of negligent conduct, including a removal prior to becoming licensed, and all appeals have been taken, or the time to file an appeal has expired.

(5) The case names, court locations, and case numbers of all conservatorship, guardianship, or trust or other estate administration cases that are closed for which the licensee served as the conservator, guardian, trustee, or personal representative.

(6) Information regarding any discipline imposed upon the licensee by the bureau.

(7) Whether the licensee has filed for bankruptcy or held a controlling financial interest in a business that filed for bankruptcy in the last 10 years.

(b) The bureau shall make the information in paragraphs (2), (4), (6), and (7) of subdivision (a) available to the public.

(c) The bureau shall also publish information regarding licensees on the Internet as specified in Section 27. The information shall include, but shall not be limited to, information regarding license status and the information specified under subdivision (b).

SEC. 7. Section 6536 of the Business and Professions Code is amended to read:

6536. The bureau shall review all applications for licensure and may investigate an applicant's qualifications for licensure. The bureau shall approve those applications that meet the requirements for licensure, but shall not issue a license to any applicant who meets any of the following criteria:

(a) Does not meet the qualifications for licensure under this chapter.

(b) Has been convicted of a crime substantially related to the qualifications, functions, or duties of a professional fiduciary.

(c) Has engaged in fraud or deceit in applying for a license under this chapter.

(d) Has engaged in dishonesty, fraud, or gross negligence in performing the functions or duties of a professional fiduciary, including engaging in such conduct prior to January 1, 2009.

(e) Has been removed as a professional fiduciary by a court for breach of trust committed intentionally, with gross negligence, in bad faith, or with reckless indifference, or has demonstrated a pattern of negligent conduct, including a removal prior to January 1, 2009, and all appeals have been taken, or the time to file an appeal has expired.

SEC. 8. Section 6561 of the Business and Professions Code is amended to read:

6561. (a) A licensee shall initially, and annually thereafter, file with the bureau a statement under penalty of perjury containing the following:

(1) Her or his business address, telephone number, and facsimile number.

(2) Whether or not he or she has been removed as a fiduciary by a court for breach of trust committed intentionally, with gross negligence, in bad faith, or with reckless indifference, or he or she has demonstrated a pattern of negligent conduct, including a removal prior to becoming licensed, and all appeals have been taken, or the time to file an appeal

has expired. The licensee may file an additional statement of the issues and facts pertaining to the case.

(3) The case names, court locations, and case numbers for all matters where the licensee has been appointed by the court.

(4) Whether he or she has been found by a court to have breached a fiduciary duty.

(5) Whether he or she has resigned or settled a matter in which a complaint has been filed, along with the case number and a statement of the issues and facts pertaining to the allegations.

(6) Any licenses or professional certificates held by the licensee.

(7) Any ownership or beneficial interests in any businesses or other enterprises held by the licensee or by a family member that receives or has received payments from a client of the licensee.

(8) Whether the licensee has filed for bankruptcy or held a controlling financial interest in a business that filed for bankruptcy in the last ten years.

(9) The name of any persons or entities that have an interest in the licensee's professional fiduciary business.

(10) Whether the licensee has been convicted of a crime.

(b) The statement by the licensee required by this section may be filed electronically with the bureau, in a form approved by the bureau. However, any additional statement filed under paragraph (2) of subdivision (a) shall be filed in writing.

SEC. 9. Section 6712 of the Business and Professions Code is amended to read:

6712. (a) All appointments to the board shall be for a term of four years. Vacancies shall be filled by appointment for the unexpired term. Each appointment thereafter shall be for a four-year term expiring on June 30 of the fourth year following the year in which the previous term expired.

(b) Each member shall hold office until the appointment and qualification of his or her successor or until one year shall have elapsed since the expiration of the term for which he or she was appointed, whichever first occurs. No person shall serve as a member of the board for more than two consecutive terms.

(c) The Governor shall appoint professional members so that one is licensed to practice engineering as a civil engineer, one as an electrical engineer, one as a mechanical engineer, another is authorized to use the title of structural engineer, and one is a member of one of the remaining branches of engineering. One of the professional members licensed under this chapter or under Chapter 15 (commencing with Section 8700) shall be from a local public agency, and one shall be from a state agency.

(d) The Governor shall appoint five of the public members and the professional members qualified as provided in Section 6711. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member.

SEC. 10. Section 6738 of the Business and Professions Code is amended to read:

6738. (a) This chapter does not prohibit one or more civil, electrical, or mechanical engineers from practicing or offering to practice within the scope of their license civil (including geotechnical and structural), electrical, or mechanical engineering as a sole proprietorship, partnership, firm, or corporation (hereinafter called business), if all of the following requirements are met:

(1) A civil, electrical, or mechanical engineer currently licensed in this state is an owner, partner, or officer in charge of the engineering practice of the business.

(2) All civil, electrical, or mechanical engineering services are performed by, or under the responsible charge of, a professional engineer licensed in the appropriate branch of professional engineering.

(3) If the business name of a California engineering business contains the name of any person, then that person shall be licensed as a professional engineer, a licensed land surveyor, a licensed architect, or a geologist registered under the Geologist Act (Chapter 12.5 (commencing with Section 7800)). Any offer, promotion, or advertisement by the business that contains the name of any individual in the business, other than by use of the name of an individual in the business name, shall clearly and specifically designate the license or registration discipline of each individual named.

(b) An out-of-state business with a branch office in this state shall meet the requirements of subdivision (a) and shall have an owner, partner, or officer who is in charge of the engineering work in the branch in this state, who is licensed in this state, and who is physically present at the branch office in this state on a regular basis. However, the name of the business may contain the name of any person not licensed in this state if that person is appropriately registered or licensed in another state. Any offer, promotion, or advertisement which contains the name of any individual in the business, other than by use of the names of the individuals in the business name, shall clearly and specifically designate the license or registration discipline of each individual named.

(c) The business name of a California engineering business may be a fictitious name. However, if the fictitious name includes the name of any person, the requirements of paragraph (3) of subdivision (a) shall be met.

(d) A person not licensed under this chapter may also be a partner or an officer of a civil, electrical, or mechanical engineering business if the requirements of subdivision (a) are met. Nothing in this section shall be construed to permit a person who is not licensed under this chapter to be the sole owner of a civil, electrical, or mechanical engineering business, unless otherwise exempt under this chapter.

(e) This chapter does not prevent an individual or business engaged in any line of endeavor other than the practice of civil, electrical, or mechanical engineering from employing or contracting with a licensed civil, electrical, or mechanical engineer to perform the respective engineering services incidental to the conduct of business.

(f) This section shall not prevent the use of the name of any business engaged in rendering civil, electrical, or mechanical engineering services, including the use by any lawful successor or survivor, that lawfully was in existence on December 31, 1987. However, the business is subject to paragraphs (1) and (2) of subdivision (a).

(g) A business engaged in rendering civil, electrical, or mechanical engineering services may use in its name the name of a deceased or retired person provided all of the following conditions are satisfied:

(1) The person's name had been used in the name of the business, or a predecessor in interest of the business, prior to and after the death or retirement of the person.

(2) The person shall have been an owner, partner, or officer of the business, or an owner, partner, or officer of the predecessor in interest of the business.

(3) The person shall have been licensed as a professional engineer, or a land surveyor, or an architect, or a geologist, (A) by the appropriate licensing board if that person is operating a place of business or practice in this state, or (B) by the applicable state board if no place of business existed in this state.

(4) The person, if retired, has consented to the use of the name and does not permit the use of the name in the title of another professional engineering business in this state during the period of the consent. However, the retired person may use his or her name as the name of a new or purchased business if it is not identical in every respect to that person's name as used in the former business.

(5) The business shall be subject to the provisions of paragraphs (1) and (2) of subdivision (a).

(h) This section does not affect the provisions of Sections 6731.2 and 8726.1.

(i) A current organization record form shall be filed with the board for all businesses engaged in rendering civil, electrical, or mechanical engineering services.

SEC. 11. Section 6770 of the Business and Professions Code is amended to read:

6770. (a) A licensee shall report to the board in writing the occurrence of any of the following events that occurred on or after January 1, 2008, within 90 days of the date the licensee has knowledge of the event:

(1) The conviction of the licensee of any felony.

(2) The conviction of the licensee of any other crime that is substantially related to the qualifications, functions, and duties of a licensed professional engineer.

(3) Any civil action judgment, settlement, arbitration award, or administrative action resulting in a judgment, settlement, or arbitration award against the licensee in any action alleging fraud, deceit, misrepresentation, breach or violation of contract, negligence, incompetence, or recklessness by the licensee in the practice of professional engineering if the amount or value of the judgment, settlement, or arbitration award is fifty thousand dollars ($50,000) or greater.

(b) The report required by subdivision (a) shall be signed by the licensee and set forth the facts that constitute the reportable event. If the reportable event involves the action of an administrative agency or court, the report shall set forth the title of the matter, court or agency name, docket number, and the date the reportable event occurred.

(c) A licensee shall promptly respond to oral or written inquiries from the board concerning the reportable events, including inquiries made by the board in conjunction with license renewal.

(d) Nothing in this section shall impose a duty upon any licensee to report to the board the occurrence of any of the events set forth in subdivision (a) either by or against any other licensee.

(e) Failure of a licensee to report to the board in the time and manner required by this section shall be grounds for disciplinary action.

(f) For the purposes of this section, a conviction includes the initial plea, verdict, or finding of guilt; a plea of no contest; or pronouncement of sentence by a trial court even though the conviction may not be final or sentence actually imposed until all appeals are exhausted.

SEC. 12. Section 6770.6 of the Business and Professions Code is amended to read:

6770.6. This article shall become operative on January 1, 2008, only if an appropriation is made from the Professional Engineer's and Land Surveyor's Fund for the 2007–08 fiscal year in the annual Budget Act to fund the activities of this article, and sufficient hiring authority is granted to the board pursuant to a budget change proposal to provide sufficient staffing to implement this article.

SEC. 13. Section 6775.1 of the Business and Professions Code is amended to read:

6775.1. The board may receive and investigate complaints against engineers-in-training and make findings thereon.

By a majority vote, the board may revoke the certificate of any engineer-in-training:

(a) Who has been convicted of a crime as defined in subdivision (a) of Section 480.

(b) Who has committed any act that would be grounds for denial of licensure pursuant to Section 480 or 496.

(c) Who has been found guilty of any fraud, deceit, or misrepresentation in obtaining his or her engineer-in-training certificate or certificate of registration, certification, or authority as a professional engineer.

(d) Who aids or abets any person in the violation of any provision of this chapter.

(e) Who violates Section 119 with respect to an engineer-in-training certificate.

(f) Who commits any act described in Section 6787.

(g) Who violates any provision of this chapter.

SEC. 14. Section 6799 of the Business and Professions Code is amended to read:

6799. The amount of the fees prescribed by this chapter shall be fixed by the board in accordance with the following schedule:

(a) The fee for filing each application for licensure as a professional engineer and each application for authority level designation at not more than four hundred dollars ($400), and for each application for certification as an engineer-in-training at not more than one hundred dollars ($100).

(b) The temporary authorization fee for a professional engineer at not more than 25 percent of the application fee in effect on the date of application.

(c) The renewal fee for each branch of professional engineering in which licensure is held, and the renewal fee for each authority level designation held, at no more than the professional engineer application fee currently in effect.

(d) The fee for a retired license at not more than 50 percent of the professional engineer application fee in effect on the date of application.

(e) The delinquency fee at not more than 50 percent of the renewal fee in effect on the date of reinstatement.

(f) The board shall establish by regulation an appeal fee for examination. The regulation shall include provisions for an applicant to be reimbursed the appeal fee if the appeal results in passage of

examination. The fee charged shall be no more than the costs incurred by the board.

(g) All other document fees are to be set by the board by rule.

Applicants wishing to be examined in more than one branch of engineering shall be required to pay the additional fee for each examination after the first.

SEC. 15. Section 7058 of the Business and Professions Code is amended to read:

7058. (a) A specialty contractor is a contractor whose operations involve the performance of construction work requiring special skill and whose principal contracting business involves the use of specialized building trades or crafts.

(b) A specialty contractor includes a contractor whose operations include the business of servicing or testing fire extinguishing systems.

(c) A specialty contractor includes a contractor whose operations are concerned with the installation and laying of carpets, linoleum, and resilient floor covering.

(d) A specialty contractor includes a contractor whose operations are concerned with preparing or removing roadway construction zones, lane closures, flagging, or traffic diversions on roadways, including, but not limited to, public streets, highways, or any public conveyance.

SEC. 16. Section 7071.6 of the Business and Professions Code is amended to read:

7071.6. (a) The board shall require as a condition precedent to the issuance, reinstatement, reactivation, renewal, or continued maintenance of a license, that the applicant or licensee file or have on file a contractor's bond in the sum of twelve thousand five hundred dollars ($12,500).

(b) Excluding the claims brought by the beneficiaries specified in subdivision (a) of Section 7071.5, the aggregate liability of a surety on claims brought against a bond required by this section shall not exceed the sum of seven thousand five hundred dollars ($7,500). The bond proceeds in excess of seven thousand five hundred dollars ($7,500) shall be reserved exclusively for the claims of the beneficiaries specified in subdivision (a) of Section 7071.5. However, nothing in this section shall be construed so as to prevent any beneficiary specified in subdivision (a) of Section 7071.5 from claiming or recovering the full measure of the bond required by this section.

(c) No bond shall be required of a holder of a license that has been inactivated on the official records of the board during the period the license is inactive.

(d) Notwithstanding any other provision of law, as a condition precedent to licensure, the board may require an applicant to post a

contractor's bond in twice the amount required pursuant to subdivision (a) until the time that the license is renewed, under the following conditions:

(1) The applicant has either been convicted of a violation of Section 7028 or has been cited pursuant to Section 7028.7.

(2) If the applicant has been cited pursuant to Section 7028.7, the citation has been reduced to a final order of the registrar.

(3) The violation of Section 7028, or the basis for the citation issued pursuant to Section 7028.7, constituted a substantial injury to the public.

SEC. 17. Section 7071.9 of the Business and Professions Code is amended to read:

7071.9. (a) If the qualifying individual, as referred to in Sections 7068 and 7068.1, is neither the proprietor, a general partner, nor a joint licensee, he or she shall file or have on file a qualifying individual's bond as provided in Section 7071.10 in the sum of twelve thousand five hundred dollars ($12,500). This bond is in addition to, and may not be combined with, any contractor's bond required by Sections 7071.5 to 7071.8, inclusive, and is required for the issuance, reinstatement, reactivation, or continued valid use of a license.

(b) Excluding the claims brought by the beneficiaries specified in paragraph (1) of subdivision (a) of Section 7071.10, the aggregate liability of a surety on claims brought against the bond required by this section shall not exceed the sum of seven thousand five hundred dollars ($7,500). The bond proceeds in excess of seven thousand five hundred dollars ($7,500) shall be reserved exclusively for the claims of the beneficiaries specified in paragraph (1) of subdivision (a) of Section 7071.10. However, nothing in this section shall be construed to prevent any beneficiary specified in paragraph (1) of subdivision (a) of Section 7071.10 from claiming or recovering the full measure of the bond required by this section. This bond is in addition to, and may not be combined with, any contractor's bond required by Sections 7071.5 to 7071.8, inclusive, and is required for the issuance, reinstatement, reactivation, or continued valid use of a license.

(c) The responsible managing officer of a corporation shall not be required to file or have on file a qualifying individual's bond, if he or she owns 10 percent or more of the voting stock of the corporation and certifies to that fact on a form prescribed by the registrar.

SEC. 18. Section 8505.2 of the Business and Professions Code is amended to read:

8505.2. Fumigation shall be performed only under the direct and personal supervision of an individual who is licensed by the board as an operator or field representative in a branch of pest control that includes fumigation.

SEC. 19. Section 8505.3 of the Business and Professions Code is amended to read:

8505.3. "Direct and personal supervision" as used in Section 8505.2 means that the Branch 1 licensee exercising that supervision shall be present at the site of the fumigation during the entire time the fumigants are being released, the time ventilation is commenced, and at the time property is released for occupancy.

SEC. 20. Section 8505.4 of the Business and Professions Code is amended to read:

8505.4. Fumigation shall be performed in compliance with all applicable state, county, and city laws and ordinances and all applicable laws and regulations of the United States.

SEC. 21. Section 8505.15 of the Business and Professions Code is repealed.

SEC. 22. Section 8506.1 of the Business and Professions Code is amended to read:

8506.1. A "registered company" is any sole proprietorship, partnership, corporation, or other organization or any combination thereof that is registered with the Structural Pest Control Board to engage in the practice of structural pest control.

A registered company may secure structural pest control work, submit bids, or otherwise contract for pest control work. A registered company may employ licensed field representatives and licensed operators to identify infestations or infections, make inspections, and represent the company in the securing of pest control work. A registered company may hire or employ individuals who are not licensed under this chapter to perform work on contracts covering wood-destroying organisms only after an operator or field representative has fully completed the negotiation or signing of the contract covering a given job.

A registered company may hire and use individuals who are not licensed under this chapter on service contracts already established.

SEC. 23. Section 8507 of the Business and Professions Code is amended to read:

8507. (a) "Structural pest control field representative" is any individual who is licensed by the board to secure structural pest control work, identify infestations or infections, make inspections, apply pesticides, submit bids for or otherwise contract, on behalf of a registered company.

A pest control field representative shall not contract for pest control work or perform pest control work on his or her own behalf.

(b) As used in this chapter, "field representative" refers to "structural pest control field representative."

SEC. 24. Section 8509 of the Business and Professions Code is amended to read:

8509. "Branch office" is any fixed place of business in addition to the location of the principal office for which the company registration is issued, where records are kept, mail received, statements rendered, money is collected, or requests are received for service or bids, or information is given pertaining to the practice of pest control, other than governmental offices.

SEC. 25. Section 8510 of the Business and Professions Code is amended to read:

8510. For purposes of this chapter, "wood preservative" means any coating formulated to protect wood surfaces from deterioration caused by insects, fungus, rot, and decay and which contains a wood preservative chemical that is registered with the Department of Pesticide Regulation and the United States Environmental Protection Agency.

SEC. 26. Section 8512 of the Business and Professions Code is amended to read:

8512. "Employer" refers to a registered company that employs operators, field representatives, applicators, and other individuals, the latter not being required to be licensed under this chapter, who work on pest control jobs under the supervision of an operator or field representative.

SEC. 27. Section 8525 of the Business and Professions Code is amended to read:

8525. The board, subject to the approval of the director, may, in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, adopt, amend, repeal, and enforce reasonably necessary rules and regulations relating to the practice of pest control and its various branches as established by Section 8560 and the administration of this chapter.

The board shall also consult with the Department of Pesticide Regulation when developing or adopting regulations that may affect the Department of Pesticide Regulation or the county agricultural commissioner's responsibilities pursuant to Division 7 (commencing with Section 12501) of the Food and Agricultural Code.

SEC. 28. Section 8551.5 of the Business and Professions Code is amended to read:

8551.5. No unlicensed individual in the employ of a registered company shall apply any pesticide, rodenticide, or allied chemicals or substances for the purpose of eliminating, exterminating, controlling, or preventing infestation or infections of pests, or organisms included in Branch 2 or Branch 3. However, an individual may, for 30 days from the date of employment, apply pesticides, rodenticides, or allied

chemicals or substances for the purposes of training under the direct supervision of a licensed field representative or operator employed by the company. This direct supervision means in the presence of the licensed field representative or operator at all times. The 30-day time period may not be extended.

SEC. 29. Section 8565.5 of the Business and Professions Code is amended to read:

8565.5. (a) An applicant for a Branch 1 operator's license shall demonstrate to the board that he or she has passed satisfactorily board-approved courses in the following areas:

(1) Pesticides.
(2) Pest identification and biology.
(3) Contract law.
(4) Rules and regulations.
(5) Business practices.
(6) Fumigation safety.

(b) An applicant for a Branch 2 operator's license shall demonstrate to the board that he or she has passed satisfactorily board-approved courses in the following areas:

(1) Pesticides.
(2) Pest identification and biology.
(3) Contract law.
(4) Rules and regulations.
(5) Business practices.

(c) An applicant for a Branch 3 operator's license shall demonstrate to the board that he or she has passed satisfactorily board-approved courses in the following areas:

(1) Pesticides.
(2) Pest identification and biology.
(3) Contract law.
(4) Rules and regulations.
(5) Business practices.
(6) Construction repair and preservation techniques.

SEC. 30. Section 8591 of the Business and Professions Code is amended to read:

8591. If delinquency in the payment of the fee for renewal of any license extends beyond three months, the license shall not be reinstated and the licensee shall be required to obtain a new license in accordance with the provisions of Article 4 (commencing with Section 8560).

SEC. 31. Section 8592 of the Business and Professions Code is amended to read:

8592. Any licensee whose license is under suspension may make application for renewal of his or her license as provided in this article,

but the board may not renew his or her license until the suspension has been lifted.

SEC. 32. Section 8610 of the Business and Professions Code is amended to read:

8610. (a) Every company that engages in the practice of structural pest control, as a sole proprietorship, partnership, corporation, or other organization or any combination thereof, shall be registered with the Structural Pest Control Board. Each application for a company registration shall include the name of the company's owner if it is a sole proprietorship, the names of the partners, if it is a partnership, or the names of its officers and shareholders with 10 percent or more ownership interest, if it is a corporation, and the address of the company's principal office in this state.

(b) (1) A company registration shall not be issued to an applicant that has an officer, director, qualifying manager, responsible managing employee, or an individual who otherwise exercises dominion or control over the company, whose license or registration is revoked or suspended at the time of the application as the result of disciplinary action pursuant to this chapter.

(2) A company registration shall not be issued to an applicant that has an officer, director, qualifying manager, responsible managing employee, or an individual who otherwise exercises dominion or control over the company, who owns or has owned in the past more than a 10 percent interest in another sole proprietorship, partnership, corporation, or other organization that has its license or registration revoked or suspended at the time of the application as the result of disciplinary action pursuant to this chapter.

(c) Each registered company shall designate an individual or individuals who hold an operator's license to act as its qualifying manager or managers. The qualifying manager or managers must be licensed in each branch of pest control in which the company engages in business. The designated qualifying manager or managers shall supervise the daily business of the company and shall be available to supervise and assist all employees of the company, in accordance with regulations which the board may establish.

(d) No individual who holds an operator's license shall act as a qualifying manager for more than two registered companies.

(1) Any individual, who on January 1, 2008, is acting as the qualifying manager for more than two registered companies shall comply with this subdivision by January 1, 2010.

(2) Commencing January 1, 2010, failure to comply with this subdivision shall result in the disassociation of the qualifying manager and the automatic suspension of the company's registration.

(3) This subdivision shall not apply to a company engaging in the practice of structural pest control as a corporation and which has an additional company or companies operating under that corporation and doing business in a name other than the corporation name.

SEC. 33. Section 8611 of the Business and Professions Code is amended to read:

8611. Each branch office shall have a branch supervisor designated by the registered company to supervise and assist the company's employees who are located at that branch. The branch supervisor shall be an individual who is licensed by the board as an operator or a field representative and his or her license shall be prominently displayed in the branch office.

If a branch supervisor ceases for any reason to be connected with a registered company, the company shall notify the registrar in writing within 10 days from that cessation. If this notice is given, the company's branch office registration shall remain in force for a reasonable length of time to be determined by rules of the board, during which period the company shall submit to the registrar in writing the name of another qualified branch supervisor.

SEC. 34. Section 8612 of the Business and Professions Code is amended to read:

8612. The licenses of qualifying managers and company registrations shall be prominently displayed in the registered company's office, and no registration issued hereunder shall authorize the company to do business except from the location for which the registration was issued. Each registered company having a branch office or more than one branch office shall be required to display its branch office registration prominently in each branch office it maintains.

When a registered company opens a branch office it shall notify the registrar in writing on a form prescribed by the board and issued by the registrar in accordance with rules and regulations adopted by the board. The notification shall include the name of the individual designated as the branch supervisor and shall be submitted with the fee for a branch office prescribed by this chapter.

SEC. 35. Section 8617 of the Business and Professions Code is amended to read:

8617. (a) The board or county agricultural commissioners, when acting pursuant to Section 8616.4, may suspend the right of a structural pest control licensee or registered company to work in a county for up to three working days or, for a licensee, registered company, or an unlicensed individual acting as a licensee, may levy an administrative fine up to one thousand dollars ($1,000) or direct the licensee to attend and pass a board-approved course of instruction at a cost not to exceed

the administrative fine, or both, for each violation of this chapter or Chapter 14.5 (commencing with Section 8698), or any regulations adopted pursuant to these chapters, or Chapter 2 (commencing with Section 12751), Chapter 3 (commencing with Section 14001), Chapter 3.5 (commencing with Section 14101), or Chapter 7 (commencing with Section 15201) of Division 7 of the Food and Agricultural Code, or any regulations adopted pursuant to those chapters, relating to pesticides. However, any violation determined by the board or the commissioner to be a serious violation as defined in Section 1922 of Title 16 of the California Code of Regulations shall be subject to a fine of not more than five thousand dollars ($5,000) for each violation. Fines collected shall be paid to the Education and Enforcement Account in the Structural Pest Control Education and Enforcement Fund. Suspension may include all or part of the registered company's business within the county based on the nature of the violation, but shall, whenever possible, be restricted to that portion of a registered company's business in a county that was in violation.

(b) A licensee who passes a course pursuant to this section shall not be awarded continuing education credit for that course.

(c) Before a suspension action is taken, a fine levied, or a licensee is required to attend and pass a board-approved course of instruction, the person charged with the violation shall be provided a written notice of the proposed action, including the nature of the violation, the amount of the proposed fine or suspension, or the requirement to attend and pass a board-approved course of instruction. The notice of proposed action shall inform the person charged with the violation that if he or she desires a hearing before the commissioner issuing the proposed action to contest the finding of a violation, that hearing shall be requested by written notice to the commissioner within 20 days of the date of receipt of the written notice of proposed action.

A notice of the proposed action that is sent by certified mail to the last known address of the person charged shall be considered received even if delivery is refused or the notice is not accepted at that address.

If a hearing is requested, notice of the time and place of the hearing shall be given at least 10 days before the date set for the hearing. At the hearing, the person shall be given an opportunity to review the commissioner's evidence and a right to present evidence on his or her own behalf. If a hearing is not requested within the prescribed time, the commissioner may take the action proposed without a hearing.

(d) If the person upon whom the commissioner imposed a fine or suspension or required attendance at a board-approved course of instruction requested and appeared at a hearing before the commissioner, the person may appeal the commissioner's decision to the Disciplinary

Review Committee and shall be subject to the procedures in Section 8662.

(e) If a suspension or fine is ordered, it may not take effect until 20 days after the date of the commissioner's decision if no appeal is filed. If an appeal pursuant to Section 8662 is filed, the commissioner's order shall be stayed until 30 days after the Disciplinary Review Committee has ruled on the appeal.

(f) Failure of a licensee or registered company to pay a fine within 30 days of the date of assessment or to comply with the order of suspension, unless the citation is being appealed, may result in disciplinary action being taken by the board.

Where a citation containing a fine is issued to a licensee and it is not contested or the time to appeal the citation has expired and the fine is not paid, the full amount of the assessed fine shall be added to the fee for renewal of that license. A license shall not be renewed without payment of the renewal fee and fine.

Where a citation containing a fine is issued to a registered company and it is not contested or the time to appeal the citation has expired and the fine is not paid, the board shall not sell to the registered company any pesticide use stamps until the assessed fine has been paid.

Where a citation containing the requirement that a licensee attend and pass a board-approved course of instruction is not contested or the time to appeal the citation has expired and the licensee has not attended and passed the required board-approved course of instruction, the licensee's license shall not be renewed without proof of attendance and passage of the required board-approved course of instruction.

(g) Once final action pursuant to this section is taken, no other administrative or civil action may be taken by any state governmental agency for the same violation. However, action taken pursuant to this section may be used by the board as evidence of prior discipline, and multiple local actions may be the basis for statewide disciplinary action by the board pursuant to Section 8620. A certified copy of the order of suspension or fine issued pursuant to this section or Section 8662 shall constitute conclusive evidence of the occurrence of the violation.

(h) Where the board is the party issuing the notice of proposed action to suspend or impose a fine pursuant to subdivision (a), "commissioner" as used in subdivisions (c), (d), and (e) includes the board's registrar.

SEC. 36. Section 8712 of the Business and Professions Code is repealed.

SEC. 37. Section 8712 is added to the Business and Professions Code, to read:

8712. The board shall compile and maintain, or may have compiled and maintained on its behalf, a register of all licensed land surveyors that includes the following information for each licensee:

(a) Name.

(b) Address of record.

(c) Type of branch license.

(d) License number.

(e) The date the license was issued.

(f) The date the license will expire.

SEC. 38. Section 8776 of the Business and Professions Code is amended to read:

8776. (a) A licensee shall report to the board in writing the occurrence of any of the following events that occurred on or after January 1, 2008, within 90 days of the date the licensee has knowledge of the event:

(1) The conviction of the licensee of any felony.

(2) The conviction of the licensee of any other crime that is substantially related to the qualifications, functions, and duties of a licensed land surveyor.

(3) Any civil action judgment, settlement, arbitration award, or administrative action resulting in a judgment, settlement, or arbitration award against the licensee in any action alleging fraud, deceit, misrepresentation, breach or violation of contract, negligence, incompetence, or recklessness by the licensee in the practice of land surveying if the amount or value of the judgment, settlement, or arbitration award is fifty thousand dollars ($50,000) or greater.

(b) The report required by subdivision (a) shall be signed by the licensee and set forth the facts that constitute the reportable event. If the reportable event involves the action of an administrative agency or court, the report shall set forth the title of the matter, court or agency name, docket number, and the dates the reportable event occurred.

(c) A licensee shall promptly respond to oral or written inquiries from the board concerning the reportable events, including inquiries made by the board in conjunction with license renewal.

(d) Nothing in this section shall impose a duty upon any licensee to report to the board the occurrence of any of the events set forth in subdivision (a) either by or against any other licensee.

(e) Failure of a licensee to report to the board in the time and manner required by this section shall be grounds for disciplinary action.

(f) For purposes of this section, a conviction includes the initial plea, verdict, or finding of guilt; a plea of no contest; or pronouncement of sentence by a trial court even though the conviction may not be final or sentence actually imposed until all appeals are exhausted.

SEC. 39. Section 8776.7 of the Business and Professions Code is amended to read:

8776.7. This article shall become operative on January 1, 2008, only if an appropriation is made from the Professional Engineer's and Land Surveyor's Fund for the 2007–08 fiscal year in the annual Budget Act to fund the activities of this article, and sufficient hiring authority is granted to the board pursuant to a budget change proposal to provide sufficient staffing to implement this article.

SEC. 40. Section 8780.1 of the Business and Professions Code is amended to read:

8780.1. The board may receive and investigate complaints against land surveyors-in-training and make findings thereon.

By a majority vote, the board may revoke the certificate of any land surveyor-in-training:

(a) Who has been convicted of a crime as defined in subdivision (a) of Section 480.

(b) Who has committed any act that would be grounds for denial of a license pursuant to Section 480 or 496.

(c) Who has been found guilty of any fraud, deceit, or misrepresentation in obtaining his or her land surveyor-in-training certificate or license as a professional land surveyor.

(d) Who aids or abets any person in the violation of any provision of this chapter.

(e) Who violates Section 119 with respect to a land surveyor-in-training certificate.

(f) Who commits any act described in Section 8792.

(g) Who violates any provision of this chapter.

SEC. 41. Section 8805 of the Business and Professions Code is amended to read:

8805. The amount of the fees prescribed by this chapter shall be fixed by the board in accordance with the following schedule:

(a) The fee for filing each application for licensure as a land surveyor at not more than four hundred dollars ($400), and for each application for certification as a land surveyor-in-training (LSIT) at not more than one hundred dollars ($100).

(b) The renewal fee for a land surveyor at not more than the application fee.

(c) The fee for a retired license at not more than 50 percent of the professional land surveyor application fee in effect on the date of application.

(d) The delinquency fee at not more than 50 percent of the renewal fee in effect on the date of reinstatement.

(e) The board shall establish by regulation an appeal fee for examination. The regulation shall include provisions for an applicant to be reimbursed the appeal fee if the appeal results in passage of examination. The fee shall be no more than the costs incurred by the board.

(f) All other document fees are to be set by the board by rule.

SEC. 42. Section 9812.5 of the Business and Professions Code is amended to read:

9812.5. The director shall gather evidence of violations of this chapter and of any regulation established hereunder by any service contractor, whether registered or not, and by any employee, partner, officer, or member of any service contractor. The director shall, on his or her own initiative, conduct spot check investigations of service contractors throughout the state on a continuous basis. This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

SEC. 43. Section 9830.5 of the Business and Professions Code is amended to read:

9830.5. Each service contractor shall pay the fee required by this chapter for each place of business operated by him or her in this state and shall register with the bureau upon forms prescribed by the director. The forms shall contain sufficient information to identify the service contractor, including name, address, retail seller's permit number, if a permit is required under the Sales and Use Tax Law (Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code), a copy of the certificate of qualification as filed with the Secretary of State if the service contractor is a foreign corporation, and other identifying data to be prescribed by the bureau. If the business is to be carried on under a fictitious name, that fictitious name shall be stated. If the service contractor is a partnership, identifying data shall be stated for each partner. If the service contractor is a private company that does not file an annual report on Form 10-K with the Securities and Exchange Commission, data shall be included for each of the officers and directors of the company as well as for the individual in charge of each place of the service contractor's business in the State of California, subject to any regulations the director may adopt. If the service contractor is a publicly held corporation or a private company that files an annual report on Form 10-K with the Securities and Exchange Commission, it shall be sufficient for purposes of providing data for each of the officers and directors of the corporation or company to file with the director the most recent annual report on Form 10-K that is filed with the Securities and Exchange Commission.

A service contractor who does not operate a place of business in this state but who sells, issues, or administers service contracts in this state, shall hold a valid registration issued by the bureau and shall pay the registration fee required by this chapter as if he or she had a place of business in this state.

This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

SEC. 44. Section 9831 of the Business and Professions Code is amended to read:

9831. Upon receipt of the form properly filled out and receipt of the required fee, the director shall, provided the applicant has not committed acts or crimes constituting grounds for denial of licensure under Section 480, issue the registration and send a proof of issuance to the service dealer. The director shall by regulation prescribe conditions upon which a person whose registration has previously been revoked or has previously been denied, may have his or her registration issued.

SEC. 45. Section 9832.5 of the Business and Professions Code is amended to read:

9832.5. (a) Registrations issued under this chapter shall expire no more than 12 months after the issue date. The expiration date of registrations shall be set by the director in a manner to best distribute renewal procedures throughout the year.

(b) To renew an unexpired registration, the service contractor shall, on or before the expiration date of the registration, apply for renewal on a form prescribed by the director, and pay the renewal fee prescribed by this chapter.

(c) To renew an expired registration, the service contractor shall apply for renewal on a form prescribed by the director, pay the renewal fee in effect on the last regular renewal date, and pay all accrued and unpaid delinquency and renewal fees.

(d) Renewal is effective on the date that the application is filed, the renewal fee is paid, and all delinquency fees are paid.

(e) For purposes of implementing the distribution of the renewal of registrations throughout the year, the director may extend, by not more than six months, the date fixed by law for renewal of a registration, except that, in that event, any renewal fee that may be involved shall be prorated in such a manner that no person shall be required to pay a greater or lesser fee than would have been required had the change in renewal dates not occurred.

(f) This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2013, deletes or extends that date.

SEC. 46. Section 9841 of the Business and Professions Code is amended to read:

9841. (a) The director may deny, suspend, revoke, or place on probation the registration of a service dealer for any of the following acts or omissions done by himself or herself or any employee, partner, officer, or member of the service dealer and related to the conduct of his or her business:

(1) Making or authorizing any statement or advertisement that is untrue or misleading, and that is known, or which by the exercise of reasonable care should be known, to be untrue or misleading.

(2) Making any false promises of a character likely to influence, persuade, or induce a customer to authorize the repair, installation, service, or maintenance of the equipment as specified by this chapter.

(3) Any other conduct that constitutes fraud or dishonest dealing.

(4) Conduct constituting incompetence or negligence.

(5) Failure to comply with the provisions of this chapter or any regulation, rule, or standard established pursuant to this chapter.

(6) Any willful departure from or disregard of accepted trade standards for good and workmanlike installation or repair.

(7) Conviction of a crime that has a substantial relationship to the qualifications, functions and duties of a registrant under this chapter, in which event the record of the conviction shall be conclusive evidence thereof.

(8) A violation of any order of the bureau made pursuant to this chapter.

(b) The director may also deny, or may suspend, revoke, or place on probation, the registration of a service dealer if the applicant or registrant, as the case may be, has committed acts or crimes constituting grounds for denial of licensure under Section 480.

(c) The director may also deny, or may suspend, revoke, or place on probation, the registration of a service dealer if the applicant or registrant, as the case may be, will be or is holding the registration for the benefit of a former registrant whose registration has been suspended or revoked and who will continue to have some involvement in the applicant's or new registrant's business.

SEC. 47. Section 9847.5 of the Business and Professions Code is amended to read:

9847.5. Each service contractor shall maintain those records as are required by the regulations adopted to carry out the provisions of this chapter for a period of at least three years. These records shall be open for reasonable inspection by the director or other law enforcement officials.

This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

SEC. 48. Section 9848 of the Business and Professions Code is amended to read:

9848. All proceedings to deny registration or suspend, revoke, or place on probation a registration shall be conducted pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 49. Section 9849 of the Business and Professions Code, as amended by Section 23 of Chapter 405 of the Statutes of 2002, is amended to read:

9849. The expiration of a valid registration shall not deprive the director of jurisdiction to proceed with any investigation or hearing on a cease and desist order against a service dealer or service contractor or to render a decision to suspend, revoke, or place on probation a registration.

This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

SEC. 50. Section 9849 of the Business and Professions Code, as amended by Section 22 of Chapter 405 of the Statutes of 2002, is amended to read:

9849. The expiration of a valid registration shall not deprive the director of jurisdiction to proceed with any investigation or hearing on a cease and desist order against a service dealer or to render a decision to suspend, revoke, or place on probation a registration.

This section shall become operative on January 1, 2013.

SEC. 51. Section 9851 of the Business and Professions Code, as amended by Section 25 of Chapter 405 of the Statutes of 2002, is amended to read:

9851. The superior court in and for the county wherein any person carries on, or attempts to carry on, business as a service dealer or service contractor in violation of the provisions of this chapter, or any regulation thereunder, shall, on application of the director, issue an injunction or other appropriate order restraining that conduct.

The proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, except that the director shall not be required to allege facts necessary to show or tending to show lack of an adequate remedy at law or irreparable injury.

This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

SEC. 52. Section 9851 of the Business and Professions Code, as amended by Section 24 of Chapter 405 of the Statutes of 2002, is amended to read:

9851. The superior court in and for the county wherein any person carries on, or attempts to carry on, business as a service dealer in violation of the provisions of this chapter, or any regulation thereunder, shall, on application of the director, issue an injunction or other appropriate order restraining that conduct.

The proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, except that the director shall not be required to allege facts necessary to show or tending to show lack of an adequate remedy at law or irreparable injury.

This section shall become operative on January 1, 2013.

SEC. 53. Section 9853 of the Business and Professions Code, as amended by Section 27 of Chapter 405 of the Statutes of 2002, is amended to read:

9853. A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions, and duties of a service dealer or service contractor is deemed to be a conviction within the meaning of this article. The director may suspend, revoke, or place on probation a registration, or may deny registration, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code, allowing that person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

SEC. 54. Section 9853 of the Business and Professions Code, as amended by Section 26 of Chapter 405 of the Statutes of 2002, is amended to read:

9853. A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions, and duties of a service dealer is deemed to be a conviction within the meaning of this article. The director may suspend, revoke, or place on probation a registration, or may deny registration,

when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing that person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

This section shall become operative on January 1, 2013.

SEC. 55. Section 9855.7 of the Business and Professions Code is amended to read:

9855.7. The director may deny, or may suspend, revoke, or place on probation the registration of a service contractor for any act, omission, or crime that is committed by the service contractor or any employee, partner, officer, or agent of the service contractor for any of the following reasons:

(a) Any conduct that constitutes fraud or dishonest dealing.

(b) Conviction of a crime that has a substantial relationship to the qualifications, functions and duties of a registrant under this chapter, in which event the record of conviction shall be conclusive evidence thereof.

(c) Assisting in or abetting the violation of, or conspiring to violate, any provision of this article, or of regulations adopted under this article.

SEC. 56. Section 9855.8 of the Business and Professions Code is amended to read:

9855.8. (a) The director may issue a citation to the service contractor for any of the following reasons:

(1) Violation of subdivision (a) of Section 9855.3 or Section 9855.5, or any regulation adopted thereunder.

(2) Upon a determination by the director that the service contractor has committed a violation by (A) making or authorizing statements or advertisements which are untrue or misleading; or (B) making false promises of a character likely to influence, persuade, or induce a customer to purchase a service contract as provided by this chapter.

(3) For purposes of this section, a violation consists of a single publication or single course of conduct that is determined by the director to be untrue or misleading.

(b) The citation may contain an order of abatement and an order to pay an administrative fine assessed by the director.

(1) Each citation shall be in writing and shall describe with particularity the nature of the violation, including a specific reference to the provision of law determined to have been violated.

(2) Where appropriate, the citation shall contain an order of abatement fixing a reasonable time for abatement of the violation.

(3) A citation or fine assessment issued pursuant to a citation shall inform the service contractor that if he or she desires a hearing to contest the finding of a violation, that hearing shall be requested by written notice to the bureau within 30 days of the date of issuance of the citation or assessment. If a hearing is not requested pursuant to this section, payment of any fine shall not constitute an admission of the violation charged. Hearings shall be held pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(4) (A) In addition to requesting a hearing as provided for herein, the service contractor may request a citation review conference with the director or his or her designee regarding the acts charged in the citation. A citation review conference shall be requested by written notice to the bureau within 20 days of the date of the issuance of the citation or assessment.

(B) The director or his or her designee shall hold a citation review conference within 60 days from the receipt of the request. At the conclusion of the citation review conference, the director or his or her designee shall state, in writing, the reasons for his or her action and transmit a copy of his or her findings and decision to the service contractor.

(5) The failure of a service contractor to pay a fine within 30 days of the date of assessment, unless the citation is being appealed, may result in disciplinary action being taken by the director. Where a citation is not contested and a fine is not paid, the full amount of the assessed fine shall be added to the fee for renewal of the registration. A registration shall not be renewed without payment of the renewal fee and fine.

(c) Where a citation includes an administrative fine, it shall be issued in accordance with the following procedures:

(1) For the first citation, the director may assess an administrative fine of not less than one hundred dollars ($100) but not more than five hundred dollars ($500).

(2) For the second citation issued during any one-year period, the director may assess an administrative fine of not less than five hundred dollars ($500) but not more than one thousand dollars ($1,000).

(3) For the third citation issued during any two-year period, the director may assess an administrative fine of not less than one thousand dollars ($1,000) but not more than two thousand dollars ($2,000).

(4) For the fourth violation of subdivision (a) of Section 9855.3 or of Section 9855.5, or any regulation adopted thereunder, during any two-year period, the director may either assess an administrative fine of not less than one thousand dollars ($1,000) but not more than two

thousand dollars ($2,000) or suspend, revoke, or place on probation a registration of the service contractor.

SEC. 57. Section 9855.9 of the Business and Professions Code is amended to read:

9855.9. This article shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

SEC. 58. Section 9860 of the Business and Professions Code, as amended by Section 30 of Chapter 405 of the Statutes of 2002, is amended to read:

9860. The director shall establish procedures for accepting complaints from the public against any service dealer or service contractor.

This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

SEC. 59. Section 9860 of the Business and Professions Code, as amended by Section 29 of Chapter 405 of the Statutes of 2002, is amended to read:

9860. The director shall establish procedures for accepting complaints from the public against any service dealer.

This section shall become operative on January 1, 2013.

SEC. 60. Section 9862.5 of the Business and Professions Code is amended to read:

9862.5. If a complaint indicates a possible violation of this chapter or of the regulations adopted pursuant to this chapter, the director may advise the service contractor of the contents of the complaint and, if the service contractor is so advised, the director shall make a summary investigation of the facts after the service dealer has had reasonable opportunity to reply thereto.

This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

SEC. 61. Section 9863 of the Business and Professions Code, as amended by Section 33 of Chapter 405 of the Statutes of 2002, is amended to read:

9863. If, upon summary investigation, it appears probable to the director that a violation of this chapter, or the regulations thereunder, has occurred, the director, in his or her discretion, may suggest measures that in the director's judgment would compensate the complainant for the damages he or she has suffered as a result of the alleged violation. If the service dealer or service contractor accepts the director's suggestions and performs accordingly, the director shall give that fact due consideration in any subsequent disciplinary proceeding. If the

service dealer or service contractor declines to abide by the suggestions of the director, the director may investigate further and may institute disciplinary proceedings in accordance with the provisions of this chapter.

This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

SEC. 62. Section 9863 of the Business and Professions Code, as amended by Section 32 of Chapter 405 of the Statutes of 2002, is amended to read:

9863. If, upon summary investigation, it appears probable to the director that a violation of this chapter, or the regulations thereunder, has occurred, the director, in his or her discretion, may suggest measures that in the director's judgment would compensate the complainant for the damages he or she has suffered as a result of the alleged violation. If the service dealer accepts the director's suggestions and performs accordingly, the director shall give that fact due consideration in any subsequent disciplinary proceeding. If the service dealer declines to abide by the suggestions of the director, the director may investigate further and may institute disciplinary proceedings in accordance with the provisions of this chapter.

This section shall become operative on January 1, 2013.

SEC. 63. Section 9873 of the Business and Professions Code, as amended by Section 35 of Chapter 405 of the Statutes of 2002, is amended to read:

9873. The fees prescribed by this chapter shall be set by the director by regulation, according to the following schedule:

(a) (1) The initial registration fee for an electronic repair industry service dealer or for an appliance repair industry service dealer is not more than one hundred sixty-five dollars ($165) for each place of business in this state. The initial registration fee for a service contractor is not more than seventy-five dollars ($75) for each place of business in this state.

(2) The initial registration fee for a person who engages in business as both an electronic repair industry service dealer and an appliance repair industry service dealer is not more than three hundred twenty-five dollars ($325) for each place of business in this state. The initial registration fee for a person who is a service contractor and engages in business as either an electronic repair industry service dealer or an appliance repair industry service dealer is not more than two hundred forty dollars ($240) for each place of business in this state.

(3) The initial registration fee for a person who engages in both the electronic repair industry and the appliance repair industry as a service

dealer and is a service contractor is not more than four hundred dollars ($400) for each place of business in this state.

(4) On or after January 1, 2000, the initial registration fee for a service contractor described in subdivision (e) of Section 12741 of the Insurance Code shall be set by the director in an amount not to exceed the actual and direct costs associated with the regulation of those service contractors, but in no event more than fifty thousand dollars ($50,000).

A service dealer or service contractor who does not operate a place of business in this state, but engages in the electronic repair industry, the appliance repair industry, or sells, issues, or administers service contracts in this state shall pay the registration fee specified herein as if he or she had a place of business in this state.

(b) (1) The annual registration renewal fee for an electronic repair industry service dealer or for an appliance repair industry service dealer is not more than one hundred sixty-five dollars ($165) for each place of business in this state, if renewed prior to its expiration date. The annual registration renewal fee for a service contractor is seventy-five dollars ($75) for each place of business in this state, if renewed prior to its expiration date.

(2) The annual renewal fee for a service dealer who engages in the business as both an electronic repair industry service dealer and an appliance repair industry service dealer is not more than three hundred dollars ($300) for each place of business in this state.

(3) The annual renewal fee for a service dealer who engages in the electronic repair industry and the appliance repair industry and is a service contractor is not more than three hundred seventy-five dollars ($375) for each place of business in this state.

(4) It is the intent of the Legislature that the amount of the annual registration renewal fee for a service contractor described in subdivision (e) of Section 12741 of the Insurance Code shall be evaluated and set by the Legislature.

A service dealer or service contractor who does not operate a place of business in this state, but who engages in the electronic repair industry, the appliance repair industry, or sells or issues service contracts in this state shall pay the registration fee specified herein as if he or she had a place of business in this state.

(c) The delinquency fee is an amount equal to 50 percent of the renewal fee for a license in effect on the date of renewal of the license, except as otherwise provided in Section 163.5.

This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2013, deletes or extends that date.

SEC. 64. Section 9873 of the Business and Professions Code, as amended by Section 34 of Chapter 405 of the Statutes of 2002, is amended to read:

9873. The fees prescribed by this chapter shall be set by the director by regulation, according to the following schedule:

(a) The initial registration fee for an electronic repair industry service dealer or for an appliance repair industry service dealer is not more than one hundred sixty-five dollars ($165) for each place of business in this state. The initial registration fee for a person who engages in business as both an electronic repair industry service dealer and an appliance repair industry service dealer is not more than three hundred twenty-five dollars ($325).

(b) The annual registration renewal fee for an electronic repair industry service dealer or for an appliance repair industry service dealer is not more than one hundred sixty-five dollars ($165) for each place of business in this state, if renewed prior to its expiration date. The annual renewal fee for a service dealer who engages in the business as both an electronic repair industry service dealer and an appliance repair industry service dealer is not more than three hundred dollars ($300).

(c) The delinquency fee is an amount equal to 50 percent of the renewal fee for a license in effect on the date of renewal of the license, except as otherwise provided in Section 163.5.

This section shall become operative on January 1, 2013.

SEC. 65. Section 9884.20 is added to the Business and Professions Code, to read:

9884.20. All accusations against automotive repair dealers shall be filed within three years after the performance of the act or omission alleged as the ground for disciplinary action, except that with respect to an accusation alleging fraud or misrepresentation as a ground for disciplinary action, the accusation may be filed within two years after the discovery, by the bureau, of the alleged facts constituting the fraud or misrepresentation.

SEC. 66. Section 19008.1 of the Business and Professions Code is amended to read:

19008.1. "Used" means furniture or bedding that has been previously owned or used by another individual.

SEC. 67. Section 19129 of the Business and Professions Code is amended to read:

19129. Secondhand or used bedding and any secondhand or used article that can be used for sleeping purposes shall be sanitized under the provisions of this chapter before being sold.

SEC. 68. Section 19132 of the Business and Professions Code is amended to read:

19132. New or sanitized articles of bedding or materials shall at all times be kept separate from any secondhand or used articles or materials that are unsanitized.

SEC. 69. Section 19170.5 of the Business and Professions Code is amended to read:

19170.5. (a) Except as provided in Section 19170.3, licenses issued under this chapter expire two years from the date of issuance. To renew his or her license, a licensee shall, on or before the date on which it would otherwise expire, apply for renewal on a form prescribed by the chief, and pay the fees prescribed by Sections 19170 and 19213.1. If a licensee fails to renew his or her license before its expiration, a delinquency fee of 20 percent, but not more than one hundred dollars ($100), notwithstanding the provisions of Section 163.5, shall be added to the renewal fee. If the renewal fee and delinquency fee are not paid within 90 days after expiration of a license, the licensee shall be assessed an additional penalty fee of 30 percent of the renewal fee.

(b) Except as otherwise provided in this chapter, a licensee may renew an expired license within six years after expiration of the license by filing an application for renewal on a form prescribed by the bureau, and paying all accrued renewal, delinquent, and penalty fees.

(c) A license that is not renewed within six years of its expiration shall not be renewed, restored, reinstated, or reissued, but the holder of the license may apply for and obtain a new license if both of the following requirements are satisfied:

(1) No fact, circumstance, or condition exists which would justify denial of licensure under Section 480.

(2) The licensee pays all renewal, delinquency, and penalty fees that have accrued since the date on which the license was last renewed.

(d) The bureau may impose conditions on any license issued pursuant to subdivision (c).

SEC. 70. Section 60.1 of the Probate Code is amended to read:

60.1. (a) "Professional fiduciary" means a person who is a professional fiduciary as defined under subdivision (f) of Section 6501 of the Business and Professions Code.

(b) On and after January 1, 2009, no person shall act or hold himself or herself out to the public as a professional fiduciary unless he or she is licensed as a professional fiduciary under Chapter 6 (commencing with Section 6500) of Division 3 of the Business and Professions Code.

SEC. 71. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction,

within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CHAPTER 355

An act to amend Sections 20028, 20069, 20281.5, 20303, 20370, 20371, 20380, 20894, 20901, 20963, 20997, 21076, 21077, 22760, and 22772 of, and to add Sections 20039.5, 20326, 20327, 20380.5, 20772.5, 20772.6, 20966.5, 21029.5, 21052.5, 21070.7, 21117.5, and 31649.6 to, the Government Code, and to amend Sections 215, 228, and 256 of the Military and Veterans Code, relating to public employees' retirement, and making an appropriation therefor.

[Approved by Governor October 9, 2007. Filed with Secretary of State October 9, 2007.]

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) The California National Guard is a military organization in California that serves essential public safety purposes and routinely supports local authorities in protecting the lives and property of the people of the state during periods of natural disaster and civil disturbance, and provides homeland security.

(b) The California National Guard has full-time civil support teams whose primary purpose is to engage in public safety actions by responding to actual or suspected incidents of terrorism in the state. The civil support teams work closely with law enforcement, fire, medical, and other emergency first responders to assist and advise incident commanders, to train and conduct exercises in the local communities, and to support public safety by ensuring adequate and efficient responses to emergencies. The civil support teams provide state-of-the-art public safety equipment and highly specialized resources and are the lead element in the California National Guard's response cycle for all hazardous incidents and emergencies.

(c) It is the intent of the Legislature to further the public purposes service by the California National Guard by providing members of this organization with pension benefits provided to other state miscellaneous members.

SEC. 2. Section 20028 of the Government Code is amended to read:

20028. "Employee" means all of the following:

(a) Any person in the employ of the state, a county superintendent of schools, or the university whose compensation, or at least that portion of his or her compensation that is provided by the state, a county superintendent of schools, or the university, is paid out of funds directly controlled by the state, a county superintendent of schools, or the university, excluding all other political subdivisions, municipal, public and quasi-public corporations. "Funds directly controlled by the state" includes funds deposited in and disbursed from the State Treasury in payment of compensation, regardless of their source.

(b) Any person in the employ of any contracting agency.

(c) City employees who prior to the effective date of the contract with the hospital are assigned to a hospital that became a contracting agency because of subdivision (p) of Section 20057 shall be deemed hospital employees from and after the effective date of the contract with the hospital for retirement purposes. City employees who after the effective date of the contract with the hospital become employed by the hospital, shall be considered as new employees of the hospital for retirement purposes.

(d) Any person in the employ of a school employer.

(e) Public health department or district employees who were employees prior to the date of assumption of the contract by the governing body of a county of the 15th class shall be deemed public health department or district employees from and after the effective date of assumption of the contract for retirement purposes. Employees who after the effective date of assumption of the contract become employed by the public health department or district shall be considered as new employees for retirement purposes.

(f) Officers, warrant officers, and enlisted personnel of the California National Guard not otherwise described in subdivision (a) rendering service authorized by Title 32 of the United States Code.

SEC. 3. Section 20039.5 is added to the Government Code, to read:

20039.5. Notwithstanding Article 5 (commencing with Section 20350) of Chapter 3, or any other provision of this part, "final compensation" for the purposes of determining any pension or benefit for service with the California National Guard with respect to a National Guard member means the highest average annual compensation that was earned while rendering service with the California National Guard. The final compensation of a National Guard member under another retirement or pension system shall not apply to the calculation of his or her retirement allowance with respect to service with the California National Guard.

SEC. 4. Section 20069 of the Government Code is amended to read:

20069. (a) "State service" means service rendered as an employee or officer (employed, appointed, or elected) of the state, the California Institute for Regenerative Medicine and the officers and employees of its governing body, the university, a school employer, or a contracting agency, for compensation, and only while he or she is receiving compensation from that employer therefor, except as provided in Article 4 (commencing with Section 20990) of Chapter 11.

(b) "State service," solely for purposes of qualification for benefits and retirement allowances under this system, shall also include service rendered as an officer or employee of a county if the salary for the service constitutes compensation earnable by a member of this system under Section 20638.

(c) "State service" shall also include compensated service rendered by an officer, warrant officer, or a person of the enlisted ranks of the California National Guard who has elected to become a member pursuant to Section 20326 and who has not canceled his or her membership pursuant to Section 20327.

SEC. 5. Section 20281.5 of the Government Code is amended to read:

20281.5. (a) Notwithstanding Section 20281, a person who becomes a state miscellaneous member other than a National Guard member or state industrial member of the system on or after the effective date of this section because the person is first employed by the state and qualifies for membership shall be subject to the provisions of this section.

(b) Members subject to this section shall not accrue credit for service in the system and shall not make employee contributions to the system, including the contributions set forth in Section 20677.4, for employment with the state until the first day of the first pay period commencing 24 months after becoming a member of the system.

(c) Notwithstanding subdivision (a), this section shall not apply to any of the following:

(1) Persons who are already members or annuitants of the system at the time they are first employed by the state.

(2) Employees of the California State University, or the legislative or judicial branch of state government.

(3) Members of the Judges' Retirement System, the Judges' Retirement System II, the Legislators' Retirement System, the State Teachers' Retirement System, or the University of California Retirement Plan.

(4) Persons who are members of a reciprocal retirement system and whose employment was subject to a reciprocal retirement system within the six months prior to membership in this system.

(5) Persons whose service is not included in the federal system.

(6) Persons who are employed by the Department of the California Highway Patrol as students at the department's training school established pursuant to Section 2262 of the Vehicle Code.

(7) Persons who had ceased to be members pursuant to Section 20340 or 21075.

(d) A separation of employment does not alter the 24-month period described by subdivision (b). A member who separates from state employment shall remain subject to this section if he or she returns to state employment as a state miscellaneous or state industrial member within that 24-month period.

(e) Any regulations adopted by the board to implement the requirements of this section shall not be subject to the review and approval of the Office of Administrative Law, pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3. The regulations shall become effective immediately upon filing with the Secretary of State.

SEC. 6. Section 20303 of the Government Code is amended to read:

20303. (a) Persons who are members of any other retirement or pension system supported wholly or in part by funds of the United States government, any state government, or any political subdivision thereof and who are receiving credit in the other system for service are, as to that service, excluded from this system.

(b) (1) For the purpose of this section only, persons who are receiving pensions, retirement allowances, or other payments, from any source whatever, because of service rendered to an employer other than the state and while they were not in state service, are not, because of that receipt, members of any other retirement or pension system.

(2) For the purposes of this section only, persons who participate in a deferred compensation plan established pursuant to Chapter 4 (commencing with Section 19993) or Chapter 8.6 (commencing with Section 19999.3) of Part 2.6 or pursuant to Article 1.1 (commencing with Section 53212) of Chapter 2 of Part 1 of Division 2 of Title 5, are not, because of that participation, members of any other retirement or pension system.

(3) For the purposes of this section only, persons who participate in a money purchase pension plan and trust that meets the requirements of Section 401(a) of Title 26 of the United States Code are not, because of that participation, members of any other retirement or pension system, so long as the contracting agency has received a ruling from the Internal Revenue Service stating that the money purchase pension plan and trust qualifies under Section 401(a) and furnishes proof thereof upon request by the board.

(4) For the purposes of this section only, persons who participate in a supplemental defined benefit plan maintained by their employer that meets the requirements of Section 401(a) of Title 26 of the United States Code are not, because of that participation, members of another retirement or pension system, provided that all of the following conditions exist:

(A) The defined benefit plan provided under this part has been designated as the employer's primary plan for the person.

(B) The supplemental defined benefit plan has received a ruling from the Internal Revenue Service stating that the plan qualifies under Section 401(a) of Title 26 of the United States Code, and has furnished proof thereof to the employer and, upon request, to the board.

(C) The person's participation in the supplemental defined benefit plan does not, in any way, interfere with the person's rights to membership in the defined benefit plan, or any benefit provided, under this part.

(5) For purposes of this section only, a person who elects membership pursuant to Section 20326 is deemed, with respect to service with the California National Guard, not to be a member of any other retirement or pension system.

SEC. 7. Section 20326 is added to the Government Code, to read:

20326. (a) Notwithstanding Section 20305, officers, warrant officers, and enlisted personnel of the California National Guard who are not members pursuant to Section 20282 are excluded from membership in this system unless those officers, warrant officers, and enlisted personnel file a written election with the board to become a member.

(b) The Military Department shall report to the board any employment and other information requested by the board for purposes of this section.

SEC. 8. Section 20327 is added to the Government Code, to read:

20327. (a) Notwithstanding any other provision of this part, a National Guard member may, at any time and on a prospective basis, cancel his or her election of membership in this system by filing a written notice of cancellation with the board.

(b) If a National Guard member cancels his or her election of membership, that National Guard member shall not be required to pay contributions as described in Section 20772.5, effective as of the date the written notice of cancellation was filed with the board.

(c) A National Guard member may only elect to cancel his or her membership pursuant to this section one time.

(d) This section shall remain operative until subsequent provisions of law delete the requirement that National Guard members pay the employer contributions as a condition of membership in this system.

SEC. 9. Section 20370 of the Government Code is amended to read:

20370. (a) "Member" means an employee who has qualified for membership in this system and on whose behalf an employer has become obligated to pay contributions.

(b) "State member" includes:

(1) State miscellaneous members.

(2) University members.

(3) Patrol members.

(4) State safety members.

(5) State industrial members.

(6) State peace officer/firefighter members.

(7) National Guard members as defined in Section 20380.5.

(c) "Local member" includes:

(1) Local miscellaneous members.

(2) Local safety members.

(d) "School member" includes all employees within the jurisdiction of a school employer, other than local police officers, school safety members and members included in a risk pool.

SEC. 10. Section 20371 of the Government Code is amended to read:

20371. "Member classification" means either of the following:

(a) Miscellaneous member classification, which includes state miscellaneous members, National Guard members, university members, local miscellaneous members, state industrial members, and school members.

(b) Safety member classification, which includes patrol members, state peace officer/firefighter members, state safety members, and local safety members.

SEC. 11. Section 20380 of the Government Code is amended to read:

20380. "State miscellaneous member" includes all members employed by the state and university, except National Guard, industrial, patrol, state peace officer/firefighter, and state safety members.

SEC. 12. Section 20380.5 is added to the Government Code, to read:

20380.5. "National Guard member" means a person who elects to become a member of this system as described in Section 20326. Except as otherwise provided, the provisions of this part applicable to state miscellaneous members shall apply to National Guard members.

SEC. 13. Section 20772.5 is added to the Government Code, to read:

20772.5. (a) Notwithstanding any other provision of this part, a National Guard member shall contribute to the retirement fund at the rate applicable to state miscellaneous members and applied to the compensation earned by him or her during the period or periods of contribution. In addition to the normal rate of contribution provided in Section 20677.4, a National Guard member shall also pay the employer contribution, at the rate established in Section 20814, attributable to the

service of that member. All contributions described in this section will be deposited in the account of the National Guard member and administered as normal contributions of that member.

(b) (1) The Military Department shall notify the member of his or her total rate of contributions and the amount of the monthly contribution payable by him or her to the retirement fund. The member shall transmit his or her contribution with respect to the service described in the notice by the Military Department. The Military Department shall transmit the contributions to the system as described in rules and regulations adopted by the board.

(2) If the member fails to pay the contribution within one month after receipt of the notice, the amount of contribution due shall accrue interest, at the rate described in Section 20059, as calculated by the Military Department, with interest to be added to the amount owed for the subsequent month. The system shall not be obligated to attempt to collect any delinquent payments. A member may not be credited with service under this part until the contribution with respect to that service, plus any accrued interest, is paid in full.

(c) The Military Department shall periodically furnish to the board a list of the members subject to this section.

SEC. 14. Section 20772.6 is added to the Government Code, to read:

20772.6. Under conditions established by the board, the system may periodically bill the Military Department for reimbursement of the administrative and program costs of administering the membership and service credit of National Guard members.

SEC. 15. Section 20894 of the Government Code is amended to read:

20894. (a) A person shall not receive credit for the same service in two retirement systems supported wholly or in part by public funds under any circumstance.

(b) Nothing in this section shall preclude concurrent participation and credit for service in a public retirement system and in a deferred compensation plan established pursuant to Chapter 4 (commencing with Section 19993) or Chapter 8.6 (commencing with Section 19999.3) of Part 2.6 or pursuant to Article 1.1 (commencing with Section 53212) of Chapter 2 of Part 1 of Division 2 of Title 5, a tax-deferred retirement plan that meets the requirements of Section 40l(k) of Title 26 of the United States Code, or a money purchase pension plan and trust that meets the requirements of Section 401(a) of Title 26 of the United States Code.

(c) Nothing in this section shall preclude concurrent participation and credit for service in the defined benefit plan provided under this part and in a supplemental defined benefit plan maintained by the employer that

meets the requirements of Section 401(a) of Title 26 of the United States Code, provided all of the following conditions exist:

(1) The defined benefit plan provided under this part has been designated as the employer's primary plan for the person.

(2) The supplemental defined benefit plan has received a ruling from the Internal Revenue Service stating that the plan qualifies under Section 401(a) of Title 26 of the United States Code, and has furnished proof thereof to the employer and, upon request, to the board.

(3) The person's participation in the supplemental defined benefit plan does not, in any way, interfere with the person's rights to membership in the defined benefit plan, or any benefit provided, under this part.

(d) For purposes of this section only, a person who elects to purchase service as described in Section 21029.5 for his or her service with the California National Guard is deemed not to receive credit for the same service in two retirement systems supported wholly or in part by public funds.

SEC. 16. Section 20901 of the Government Code is amended to read:

20901. (a) Notwithstanding any other provisions of this part, if the Governor, by executive order, determines that because of an impending curtailment of, or change in the manner of, performing service, the best interests of the state would be served by encouraging the retirement of state employees, and that sufficient economies could be realized to offset any cost to state agencies resulting from this section, an additional two years of service shall be credited to state members, other than school members, if the following conditions exist:

(1) The member meets the service requirements of Section 21060 or 21074 and retires during a period not to exceed 120 days or less than 60 days commencing no sooner than the date of issuance of the Governor's executive order which shall specify the period. For purposes of this paragraph, the service requirements of Sections 21060 and 21074 shall not include service as a National Guard member or service purchased pursuant to Section 21029.5.

(2) The appointing power, as defined in Section 18524, or the Regents of the University of California or the Trustees of the California State University, transmits to the retirement fund an amount determined by the board that is equal to the actuarial equivalent of the difference between the allowance the member receives after the receipt of service credit under this section and the amount the member would have received without that service credit. The transfer to the retirement fund shall be made in a manner and time period acceptable to the employer and the board.

(3) The appointing power or the regents or the trustees determines that it is electing to exercise the provisions of this section, pursuant to the Governor's order, and certifies to the Department of Finance and to the Legislative Analyst's Office, as to the specific economies that will be realized were the additional service credit towards retirement granted.

(b) As used in this section, "member" means a state employee who is employed in a job classification, department, or other organizational unit designated by the appointing power, as defined in Section 18524, the Regents of the University of California, or the Trustees of the California State University.

(c) The amount of service credit shall be two years regardless of credited service, but shall not exceed the number of years intervening between the date of the member's retirement and the date the member would be required to be retired because of age. The appointing power or the regents or the trustees shall make the payment with respect to all eligible employees who retired pursuant to this section.

(d) Any member who qualifies under this section, upon subsequent reentry to this system shall forfeit the service credit acquired under this section.

(e) This section shall not apply to any member otherwise eligible if the member receives any unemployment insurance payments arising out of employment with an employer subject to this part during a period extending one year beyond the date of issuance of the executive order or if the member is not eligible to retire without the additional credit available under this section.

(f) (1) The benefit provided by this section shall not be applicable to the employees of any appointing power or the regents or the trustees until the Director of Finance approves the transmittal of funds by that appointing power or the regents or the trustees to the retirement fund pursuant to paragraph (3) of subdivision (a).

(2) The Director of Finance shall approve the transmittal of funds by the appointing power or the regents or the trustees not sooner than 30 days after notification in writing of the necessity therefor to the chairperson of the committee in each house that considers appropriations and the Chairperson of the Joint Legislative Budget Committee, or not sooner than such lesser time as the chairperson of the committee, or his or her designee, may in each instance determine. If there is any written communication between the Director of Finance and the Legislative Analyst, a copy thereof shall be immediately transmitted to the chairperson of each appropriate policy committee.

SEC. 17. Section 20963 of the Government Code is amended to read:

20963. (a) A state, school, or school safety member, whose effective date of retirement is within four months of separation from employment

with the employer subject to this section that granted the sick leave credit, shall be credited at his or her retirement with 0.004 year of service credit for each unused day of sick leave certified to the board by the employer. The certification shall report only those days of unused sick leave that were accrued by the member during the normal course of his or her employment and shall not include any additional days of sick leave reported for the purpose of increasing the member's retirement benefit. Reports of unused days of sick leave shall be subject to audit and retirement benefits may be adjusted where improper reporting is found. For purposes of this subdivision, sick leave shall not include sick leave earned as a National Guard member as described in Section 20380.5.

(b) Until receipt of certification from an employer concerning unused sick leave, the board may pay an estimated allowance pursuant to this section. At the time of receipt of the certification, the allowance shall be adjusted to reflect any necessary changes.

(c) Notwithstanding any other provisions of this part, this section shall not apply to local members other than local miscellaneous members employed before July 1, 1980, by a school district that is a contracting agency or those school safety members employed before July 1, 1980, by a contracting agency that is a school district or community college district, as defined in subdivision (i) of Section 20057.

(d) This section shall not apply to any of the following:

(1) A person who becomes a school member on and after July 1, 1980, and any person who becomes a local member employed, on and after July 1, 1980, by a school district that is a contracting agency whether or not the person was ever a school member or local member prior to that date.

(2) A state employee, with respect to sick leave credits earned as a state member under Section 21353.5, except that the member shall be entitled to receive credit under this section for the sick leave he or she has earned as a state member subject to any other retirement formula, provided the member has a sick leave credit balance remaining at the time of retirement.

(e) For the purposes of this section, sick leave benefits provided to state employees pursuant to the state sick leave system shall be construed to mean compensation paid to employees on approved leaves of absence because of sickness.

SEC. 18. Section 20966.5 is added to the Government Code, to read:

20966.5. For purposes of Sections 20326 and 21029.5, each day of compensated service with the California National Guard or service by a National Guard member authorized by Title 10 of the United State

Code shall count as one day of service and shall be credited in each fiscal year based on the ratio that service bears to 215 days.

SEC. 19. Section 20997 of the Government Code is amended to read:

20997. (a) Notwithstanding any other provision of this part, for each member other than a National Guard member absent without compensation due to military service pursuant to Section 20990, the employer shall contribute an amount equal to the contributions that would have been made by the employer and the employee during the absence. The employer's contribution pursuant to this section shall be based upon the member's compensation earnable and the contribution rates in effect at the commencement of the absence, if any of the following apply:

(1) The member returns to state service within six months after receiving a discharge from military service other than dishonorable.

(2) The member returns to state service within six months after completion of any period of rehabilitation offered by the United States government, except that for purposes of this section, rehabilitation solely for education purposes shall not be considered.

(3) The member is granted a leave of absence from the state employer as of the same date the member was reinstated to that employment from military service, provided that the member returns to state service at the conclusion of the leave.

(4) The member is placed on a state civil service reemployment list within six months after receiving a discharge from military service other than dishonorable and returns to state service upon receipt of an offer of reemployment.

(5) The member retires from this system for service or disability during the course of an absence from state service for military service.

(6) The member dies during the course of an absence from state service for military service.

(b) Any member on leave from state service for military service who elects to continue contributing to this system shall be entitled to a refund of those contributions upon request.

(c) Any member who withdrew contributions during or in contemplation of his or her military service is entitled to the benefits of this section irrespective of whether the contributions are redeposited. The rate for future contributions for the member shall be based upon the member's age at the time the member commenced a leave of absence from state service for service in the military.

(d) The employer's contribution pursuant to this section may be made either in lump sum, or it may be included in its monthly contribution as adjusted by inclusion of the amount due in the employer rate at the valuation most near in time to the event causing the employer's liability for those contributions. The employer's contributions pursuant to this

section shall be used solely for the purpose of paying retirement and death benefits and shall not be paid to the member whose contributions are refunded to him or her pursuant to Section 20735.

SEC. 20. Section 21029.5 is added to the Government Code, to read:

21029.5. (a) "Public service" with respect to a state member also means all periods of service rendered as an officer, warrant officer, or a person in the enlisted ranks of the California National Guard prior to electing membership in this system pursuant to Section 20326. "Public service" also means an officer, warrant officer, or a person in the enlisted ranks of the California National Guard rendering service authorized by Title 10 of the United States Code. Public service may not be granted if the service described in this section was terminated by a discharge under other than honorable conditions.

(b) A member who elects to purchase service credit for public service under this section shall pay the contributions described in Sections 21050 and 21052.

SEC. 21. Section 21052.5 is added to the Government Code, to read:

21052.5. A person who is solely a National Guard member or who retires from membership in this system solely as a National Guard member may elect to receive service credit under either of the following:

(a) The National Guard member elects to receive service credit pursuant to Section 20750, 20751, 20751.5, or 20753.

(b) The National Guard member elects to receive service credit pursuant to a provision that requires the member to pay contributions as described in Sections 21050 and 21052.

SEC. 22. Section 21070.7 is added to the Government Code, to read:

21070.7. Notwithstanding any other provision of this part, Sections 21076 and 21077 shall not apply to service with the California National Guard or service as a National Guard member regardless of any prior membership status or previous election made.

SEC. 23. Section 21076 of the Government Code is amended to read:

21076. (a) The service retirement allowance for a state miscellaneous or state industrial member who has elected the benefits of this section is a pension equal to the fraction of one-hundredth of the member's final compensation set forth opposite the member's age at retirement, taken to the preceding completed quarter year in the following table, multiplied by the member's number of years of state miscellaneous service:

Age at Retirement	Fraction
50	.5000
50 ¼	.5125
50 ½	.5250

Age at Retirement	Fraction
50 ¾	.5375
51	.5500
51 ¼	.5625
51 ½	.5750
51 ¾	.5875
52	.6000
52 ¼	.6125
52 ½	.6250
52 ¾	.6375
53	.6500
53 ¼	.6625
53 ½	.6750
53 ¾	.6875
54	.7000
54 ¼	.7125
54 ½	.7250
54 ¾	.7375
55	.7500
55 ¼	.7625
55 ½	.7750
55 ¾	.7875
56	.8000
56 ¼	.8125
56 ½	.8250
56 ¾	.8375
57	.8500
57 ¼	.8625
57 ½	.8750
57 ¾	.8875
58	.9000
58 ¼	.9125
58 ½	.9250
58 ¾	.9375
59	.9500
59 ¼	.9625
59 ½	.9750
59 ¾	.9875
60	1.0000
60 ¼	1.0125
60 ½	1.0250
60 ¾	1.0375

Age at Retirement	Fraction
61	1.0500
61 ¼	1.0625
61 ½	1.0750
61 ¾	1.0875
62	1.1000
62 ¼	1.1125
62 ½	1.1250
62 ¾	1.1375
63	1.1500
63 ¼	1.1625
63 ½	1.1750
63 ¾	1.1875
64	1.2000
64 ¼	1.2125
64 ½	1.2250
64 ¾	1.2375
65	1.2500

(b) This section shall not apply to a National Guard member.

SEC. 24. Section 21077 of the Government Code is amended to read:

21077. (a) The service retirement allowance for a state miscellaneous or state industrial member who elects to be subject to this section shall be: the sum of the allowance for service rendered under the Second Tier retirement formula, computed pursuant to Section 21076, added to the allowance for service rendered as a state miscellaneous or state industrial member covered under the First Tier formula, computed pursuant to Section 21353 or 21354.1, as applicable.

(b) This section shall not apply to a National Guard member.

SEC. 25. Section 21117.5 is added to the Government Code, to read:

21117.5. Notwithstanding any other provision of law, a person who is solely a National Guard member shall not be partially retired for service, nor shall service with the California National Guard be used to qualify for benefits as described in Section 21117.

SEC. 26. Section 22760 of the Government Code is amended to read:

22760. "Annuitant" means:

(a) A person, other than a National Guard member defined in Section 20380.5, who has retired within 120 days of separation from employment and who receives a retirement allowance under any state or University of California retirement system to which the state was a contributing party.

(b) A surviving family member receiving an allowance in place of an annuitant who has retired as provided in subdivision (a), or as the survivor of a deceased employee under Section 21541, 21546, 21547, or 21547.7, or similar provisions of any other state retirement system.

(c) A person who has retired within 120 days of separation from employment with a contracting agency as defined in Section 22768 and who receives a retirement allowance from the retirement system provided by the employer, or a surviving family member who receives the retirement allowance in place of the deceased.

(d) A judge who receives the benefits provided by subdivision (e) of Section 75522.

(e) A person who was a state member for 30 years or more and who, at the time of retirement, was a local member employed by a contracting agency.

(f) A Member of the Legislature or an elective officer of the state whose office is provided by the California Constitution, who has at least eight years of credited service, and who meets the following conditions:

(1) Permanently separates from state service on or after January 1, 1988, and not more than 10 years before or 10 years after his or her minimum age for service retirement, or is an inactive member of the Legislators' Retirement System pursuant to Section 9355.2.

(2) Receives a retirement allowance under a state retirement system supported in whole or in part by state funds other than the University of California Retirement System.

(g) An exempt employee who meets all of the following conditions:

(1) Has at least 10 years of credited state service that includes at least two years of credited service while an exempt employee.

(2) Permanently separates from state service on or after January 1, 1988, and not more than 10 years before or 10 years after his or her minimum age for service retirement.

(3) Receives a retirement allowance under a state retirement system supported in whole or in part by state funds other than the University of California Retirement System.

(h) A person receiving a survivor allowance pursuant to Article 3 (commencing with Section 21570) of Chapter 14 of Part 3 provided that he or she was eligible to enroll in a health benefit plan on the date of the member's death, on whose account the survivor allowance is payable.

(i) (1) A family member of a deceased retired member of the State Teachers' Retirement Plan, if the deceased member meets the following conditions:

(A) Retired within 120 days of separation from employment.

(B) Retired before the member's school employer elected to contract for health benefit coverage under this part.

(C) Prior to his or her death, received a retirement allowance that did not provide for a survivor allowance to family members.

(2) The family member shall elect coverage as an annuitant within one calendar year from the date that the deceased member's school employer elected to contract for health benefit coverage under this part.

SEC. 27. Section 22772 of the Government Code is amended to read:

22772. (a) "Employee" means:

(1) An officer or employee of the state or of any agency, department, authority, or instrumentality of the state, including the University of California.

(2) An employee who is employed by a contracting agency, including, but not limited to, an officer or official of a contracting agency if the officer or official participates in the retirement system provided by the employer.

(3) An annuitant receiving a retirement allowance pursuant to Section 21228 who is employed by a contracting agency.

(4) A teaching associate, lecturer, coach, or interpreter employed by the California State University who is appointed to work in an academic year classification for at least six weighted teaching units for one semester, or for at least six weighted teaching units for two or more consecutive quarter terms. This paragraph does not apply to a state member employed by the California State University, unless provided for in a memorandum of understanding reached pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1 or authorized by the Trustees of the California State University for employees excluded from collective bargaining.

(5) All employees in job classes specified in subdivision (a) of Section 14876.

(b) Except as otherwise provided by this part, "employee" does not include any of the following:

(1) A person employed on an intermittent, irregular, or less than half-time basis, or an employee similarly situated.

(2) A National Guard member described in Section 20380.5.

SEC. 28. Section 31649.6 is added to the Government Code, to read:

31649.6. (a) Notwithstanding Section 31649 or 31649.5, a member who resigned from county service, or who obtained a leave of absence from county service, to enter and did enter the Armed Forces of the United States on a voluntary or involuntary basis and who then returned to county service within one year after separation from the Armed Forces under honorable conditions, shall receive credit for service and prior service for all or any part of his or her military service, if, before retirement from the county, he or she contributes what he or she would have paid to the fund based on his or her compensation earnable pursuant

to Section 31461 at the time he or she resigned or obtained the leave of absence, together with regular interest thereon.

(b) This section shall not be operative in any county until the board of supervisors, by resolution, makes this section applicable in the county.

SEC. 29. Section 215 of the Military and Veterans Code is amended to read:

215. For all purposes under this code, commissioned officers, warrant officers and enlisted men and women of the California National Guard, California Air National Guard, and California National Guard Reserve who have heretofore or hereafter performed service in the United States Army, United States Air Force, United States Navy, or a reserve component thereof shall be entitled to credit for time so served as if that service had been rendered in the state forces. Service in the state forces shall include all full-time active duty and part-time duty performed heretofore or hereafter either as an enlisted man or woman, warrant officer or commissioned officer pursuant to any prior or present section or sections or provisions of this code. Federal law notwithstanding, in computing state service for retirement with pay under this authority, full-time active service and part-time duty or service with the Armed Forces of the United States or any reserve component thereof shall be considered.

SEC. 30. Section 228 of the Military and Veterans Code is amended to read:

228. (a) A commissioned or warrant officer of the California National Guard who has served 20 years in the active service of the state may, on application, in the discretion of the Governor, be retired. Service in the United States Army, United States Air Force, United States Navy, or any reserve component thereof is considered state service in computing length of state service for the purposes of this section.

(b) Upon application made within one year of retirement, the officer may, in the discretion of the Governor, be granted an honorary advancement to the next grade above that held on the date of application for retirement. The Adjutant General shall adopt regulations governing the application procedure, qualifications required, and rights and privileges in connection with honorary post-retirement promotions under this subdivision. If recalled to either state or federal active service, a person honorarily promoted under this subdivision shall return to duty in that grade specified by federal law or regulations applicable to the person.

(c) Commissioned and warrant officers on active duty with the office of the Adjutant General pursuant to Section 167 who are not members of the Public Employees' Retirement System and who have been on active duty with the office of the Adjutant General for a total of 10 years

shall, on application, be retired in accordance with the federal law and regulations which on the date of application govern the retirement of commissioned and warrant officers of the reserve components of the Army of the United States on extended active duty. Retirement from state active duty with the office of the Adjutant General does not prohibit a person from active service in the California National Guard. In these cases, the length of service shall be computed as provided in this section and Section 215.

SEC. 31. Section 256 of the Military and Veterans Code is amended to read:

256. (a) An enlisted member of the California National Guard who has served 20 years in the active service of the state may, on application, in the discretion of the Governor, be retired. Service in the United States Army, United States Air Force, United States Navy, or any reserve component thereof shall be considered as state service in computing length of state service for the purposes of this section.

(b) Upon application made within one year of retirement, the person may, in the discretion of the Governor, be granted an honorary advancement to the next rank above that held on the date of application for retirement. The Adjutant General shall adopt regulations governing the application procedure, qualifications required, and rights and privileges in connection with honorary post-retirement promotions. If recalled to either state or federal active service, a person honorarily promoted under this subdivision shall return to duty in that rank specified by federal law or regulations applicable to the person.

(c) An enlisted member on active duty with the office of the Adjutant General pursuant to Section 167 who is not a member of the Public Employees' Retirement System and who has been on active duty with the office of the Adjutant General for a total of 10 years shall, on application, be retired in accordance with the federal law and regulations which on the date of application govern the retirement of enlisted members of the reserve components of the Army of the United States on extended active duty. In these cases, the length of service shall be computed as provided in this section and Section 215.

CHAPTER 356

An act to add Section 66025.8 to the Education Code, relating to postsecondary education.

[Approved by Governor October 9, 2007. Filed with Secretary of State October 9, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 66025.8 is added to the Education Code, to read:

66025.8. The California State University and each community college district shall, and the University of California is requested to, with respect to each campus in their respective jurisdictions that administers a priority enrollment system, grant priority in that system for registration for enrollment to any member or former member of the Armed Forces of the United States for any academic term attended at one of these institutions within two years of leaving active duty. As used in this section, "member or former member of the Armed Forces of the United States" includes, but is not necessarily limited to, any student who is called to active military duty compelling that student to take an academic leave of absence.

SEC. 2. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

CHAPTER 357

An act to add Section 10783.2 to the Revenue and Taxation Code, and to amend Sections 5101.5, 5101.6, and 9105 of the Vehicle Code, relating to vehicles.

[Approved by Governor October 9, 2007. Filed with Secretary of State October 9, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 10783.2 is added to the Revenue and Taxation Code, to read:

10783.2. (a) The license fee imposed by this part does not apply to a passenger vehicle, a motorcycle, or a commercial vehicle of less than 8,001 pounds unladen weight, unless the vehicle is used for transportation for hire, compensation, or profit, if the vehicle is owned by either of the following:

(1) The surviving spouse of a former American prisoner of war who has elected under subdivision (c) of Section 5101.5 of the Vehicle Code to retain the special license plates.

(2) The surviving spouse of a Congressional Medal of Honor recipient who has elected under subdivision (d) of Section 5101.6 of the Vehicle Code to retain the special license plates.

(b) The exemption granted by subdivision (a) shall extend to not more than one vehicle owned by the surviving spouse, and is applicable to the same vehicle as described in subdivision (b) of Section 9105 of the Vehicle Code.

SEC. 2. Section 5101.5 of the Vehicle Code is amended to read:

5101.5. (a) A person otherwise eligible under this article who is a former American prisoner of war may apply for special license plates for the vehicle under this article. The special license plates assigned to the vehicle shall run in a separate numerical series and contain a replica design of the American Prisoner of War Medal followed by the letters "POW" and four numbers. The special license plates issued under this subdivision also shall contain the following words: "Ex-Prisoner of War." The department shall, pursuant to this article, reserve and issue the special license plates provided for by this section only to persons who show by satisfactory proof former prisoner-of-war status. A person otherwise issued license plates within this series pursuant to this article prior to January 1, 1982, may retain them.

(b) Special license plates may be issued pursuant to subdivision (a) only for a vehicle owned or coowned by a former American prisoner of war.

(c) Upon the death of a person issued the special license plates pursuant to this section, his or her surviving spouse may retain the special license plates subject to the conditions set forth in this section. If there is no surviving spouse, the special license plates shall be returned to the department either within 60 days following that death, or upon the expiration date of the vehicle registration, whichever date occurs first. However, in the absence of a surviving spouse, a member of the former prisoner of war's family may retain one of the special license plates as a family heirloom, subject to the conditions set forth in subdivision (h), upon submitting an affidavit to the department agreeing not to attempt to use the special license plates for vehicle registration purposes.

(d) If a surviving spouse who has elected to retain the special license plates as authorized under subdivision (c) dies while in possession of the special license plates, the special license plates shall be returned to the department either within 60 days following that death, or upon the expiration date of the vehicle registration, whichever date occurs first. However, a member of the former prisoner of war's family may retain one of the special license plates as a family heirloom, subject to the conditions set forth in subdivision (h), upon submitting an affidavit to

the department agreeing not to attempt to use the special license plates for vehicle registration purposes.

(e) A vehicle exempted from fees by Section 9105 and by Section 10783 of the Revenue and Taxation Code shall lose the exemption upon the death of the former American prisoner of war, except that if a surviving spouse elects to retain the special license plates as authorized under subdivision (c), the exemption pursuant to Section 9105, and Section 10783.2 of the Revenue and Taxation Code, shall extend until the death of that spouse.

(f) Sections 5106 and 5108 do not apply to this section.

(g) The department shall recall all former prisoner-of-war special license plates issued pursuant to this section prior to January 1, 1999, and shall issue to the holder of those special license plates, without charge, the revised special license plates authorized by this section.

(h) The special license plates issued under this section are not valid for use for vehicle registration purposes or for the purposes of Section 9105 or Section 10783 or 10783.2 of the Revenue and Taxation Code by a person other than the person issued the special license plates under subdivision (a) and the surviving spouse of that person.

(i) For the purposes of this section, "family" means grandparents, stepgrandparents, parents, stepparents, siblings, stepsiblings, children, and stepchildren of the person issued the special license plates under subdivision (a).

SEC. 3. Section 5101.6 of the Vehicle Code is amended to read:

5101.6. (a) A person otherwise eligible under this article who is a Congressional Medal of Honor recipient may apply for special license plates for the vehicle under this article. The special license plates assigned to the vehicle shall run in a separate numerical series and shall have inscribed on the license plate the words "Congressional Medal of Honor" or "Medal of Honor." The department shall reserve and issue the special license plates to all applicants providing the proof required by subdivision (b).

(b) The applicant shall, by satisfactory proof, show that the applicant is a Congressional Medal of Honor recipient.

(c) Special license plates may be issued pursuant to subdivision (a) only for a vehicle owned or coowned by a Congressional Medal of Honor recipient.

(d) Upon the death of a person issued special license plates pursuant to this section, his or her surviving spouse may retain the special license plates subject to the conditions set forth in this section. If there is no surviving spouse, the special license plates shall be returned to the department either within 60 days following that death, or upon the expiration date of the vehicle registration, whichever date occurs first.

However, in the absence of a surviving spouse, a member of the Congressional Medal of Honor recipient's family may retain one of the special license plates as a family heirloom, subject to the conditions set forth in subdivision (h), upon submitting an affidavit to the department agreeing not to attempt to use the special license plates for vehicle registration purposes.

(e) If a surviving spouse who has elected to retain the special license plates as authorized under subdivision (d) dies while in possession of the special license plates, the special license plates shall be returned to the department either within 60 days following that death, or upon the expiration date of the vehicle registration, whichever date occurs first. However, a member of the Congressional Medal of Honor recipient's family may retain one of the special license plates as a family heirloom, subject to the conditions set forth in subdivision (h), upon submitting an affidavit to the department agreeing not to attempt to use the special license plates for vehicle registration purposes.

(f) A vehicle exempted from fees by Section 9105 and by Section 10783 of the Revenue and Taxation Code shall lose the exemption upon the death of the Congressional Medal of Honor recipient, except that if a surviving spouse elects to retain the special license plates as authorized under subdivision (d), the exemption pursuant to Section 9105, and Section 10783.2 of the Revenue and Taxation Code, shall extend until the death of that spouse.

(g) Sections 5106 and 5108 do not apply to this section.

(h) The special license plates issued under this section are not valid for use for vehicle registration purposes or for the purposes of Section 9105 or Section 10783 or 10783.2 of the Revenue and Taxation Code by a person other than the person issued the special license plates under subdivision (a) and the surviving spouse of that person.

(i) For the purposes of this section, "family" means grandparents, stepgrandparents, parents, stepparents, siblings, stepsiblings, children, and stepchildren of the person issued the special license plates under subdivision (a).

SEC. 4. Section 9105 of the Vehicle Code is amended to read:

9105. (a) Except for fees for duplicate license plates, duplicate certificates, or duplicate cards, the fees specified in this code need not be paid for a vehicle that is of a type subject to registration under this code, and that is not used for transportation for hire, compensation, or profit, when owned by any of the following:

(1) A disabled veteran.

(2) A former American prisoner of war.

(3) The surviving spouse of a former American prisoner of war who has elected to retain the special license plates issued under Section 5101.5.

(4) A Congressional Medal of Honor recipient.

(5) The surviving spouse of a Congressional Medal of Honor recipient who has elected to retain the special license plates issued under Section 5101.6.

(b) The exemption granted by subdivision (a) shall not extend to more than one vehicle owned by a former American prisoner of war, a disabled veteran, or a Congressional Medal of Honor recipient, or a surviving spouse, and is applicable to the same vehicle as described in subdivision (b) of Section 10783, or subdivision (b) of Section 10783.2, of the Revenue and Taxation Code.

(c) (1) The department may require a disabled veteran applying for an exemption under this section to submit a certificate signed by a physician and surgeon, or to the extent that it does not cause a reduction in the receipt of federal aid highway funds, by a nurse practitioner, certified nurse midwife, physician assistant, chiropractor, or optometrist, substantiating the disability.

(2) The department may require a person applying for an exemption under this section for either of the following reasons to do any of the following:

(A) By reason of the person's status as a former prisoner of war, to show, by satisfactory proof, his or her former prisoner-of-war status.

(B) By reason of the person's status of receiving the Congressional Medal of Honor, to show, by satisfactory proof, that he or she is a Congressional Medal of Honor recipient.

(d) For the purposes of this section, the term "vehicle" means any of the following:

(1) A passenger motor vehicle.

(2) A motorcycle.

(3) A commercial motor vehicle of less than 8,001 pounds unladen weight.

CHAPTER 358

An act to add Sections 1241, 14960, 22345, and 23038 to the Financial Code, and to amend Section 394 of the Military and Veterans Code, relating to consumer loans, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 9, 2007. Filed with
Secretary of State October 9, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 1241 is added to the Financial Code, to read:

1241. (a) Any state-chartered bank that makes a refund anticipation loan to a covered borrower, as defined in Section 232 of Title 32 of the Code of Federal Regulations, as published on August 31, 2007, in Volume 72 of the Federal Register, shall comply with the provisions of Section 670 of Public Law 109-364 and Section 232 of Title 32 of the Code of Federal Regulations, as published on August 31, 2007, in Volume 72 of the Federal Register pertaining to refund anticipation loans.

(b) With respect to any refund anticipation loan covered by Section 670 of Public Law 109-364 and Section 232 of Title 32 of the Code of Federal Regulations, as published on August 31, 2007, in Volume 72 of the Federal Register, a person that does not market or extend those loans to covered borrowers shall not be in violation of Section 394 of the Military and Veterans Code.

SEC. 2. Section 14960 is added to the Financial Code, to read:

14960. (a) Any credit union that makes a refund anticipation loan to a covered borrower, as defined in Section 232 of Title 32 of the Code of Federal Regulations, as published on August 31, 2007, in Volume 72 of the Federal Register, shall comply with the provisions of Section 670 of Public Law 109-364 and Section 232 of Title 32 of the Code of Federal Regulations, as published on August 31, 2007, in Volume 72 of the Federal Register pertaining to refund anticipation loans.

(b) With respect to any refund anticipation loan covered by Section 670 of Public Law 109-364 and Section 232 of Title 32 of the Code of Federal Regulations, as published on August 31, 2007, in Volume 72 of the Federal Register, a person that does not market or extend those loans to covered borrowers shall not be in violation of Section 394 of the Military and Veterans Code.

SEC. 3. Section 22345 is added to the Financial Code, to read:

22345. (a) Any person who violates any provision of Section 670 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109-364) or any provision of Section 232 of Title 32 of the Code of Federal Regulations, as published on August 31, 2007, in Volume 72 of the Federal Register, violates this chapter.

(b) With respect to any consumer loans covered by Section 670 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109-364) or by Section 232 of Title 32 of the Code

of Federal Regulations, as published on August 31, 2007, in Volume 72 of the Federal Register, a person that does not market consumer loans to, or does not extend those loans to, covered borrowers, as that term is defined under Section 232 of Title 32 of the Code of Federal Regulations, as published on August 31, 2007, in Volume 72 of the Federal Register, shall not be in violation of Section 394 of the Military and Veterans Code.

(c) This section shall become operative on October 1, 2007.

SEC. 4. Section 23038 is added to the Financial Code, to read:

23038. (a) Any person who violates any provision of Section 670 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109-364) or any provision of Section 232 of Title 32 of the Code of Federal Regulations, as published on August 31, 2007, in Volume 72 of the Federal Register, violates this division.

(b) With respect to any deferred deposit transactions covered by Section 670 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109-364) or by Section 232 of Title 32 of the Code of Federal Regulations, as published on August 31, 2007, in Volume 72 of the Federal Register, a person that does not market deferred deposit transactions to, or does not enter into those transactions with, covered borrowers, as that term is defined under Section 232 of Title 32 of the Code of Federal Regulations, as published on August 31, 2007, in Volume 72 of the Federal Register, shall not be in violation of Section 394 of the Military and Veterans Code.

(c) This section shall become operative on October 1, 2007.

SEC. 5. Section 394 of the Military and Veterans Code is amended to read:

394. (a) No person shall discriminate against any officer, warrant officer or enlisted member of the military or naval forces of the state or of the United States because of that membership. No member of the military forces shall be prejudiced or injured by any person, employer, or officer or agent of any corporation, company, or firm with respect to that member's employment, position or status or be denied or disqualified for employment by virtue of membership or service in the military forces of this state or of the United States.

(b) No officer or employee of the state, or of any county, city and county, municipal corporation, or district shall discriminate against any officer, warrant officer or enlisted member of the military or naval forces of the state or of the United States because of that membership. No member of the military forces shall be prejudiced or injured by any officer or employee of the state, or of any county, city and county, municipal corporation, or district with respect to that member's employment, appointment, position or status or be denied or disqualified

for or discharged from that employment or position by virtue of membership or service in the military forces of this state or of the United States.

(c) No person shall prohibit or refuse entrance to any officer or enlisted member of the Army or Navy of the United States or of the military or naval forces of this state into any public entertainment or place of amusement or into any of the places described in Sections 51 and 52 of the Civil Code because that member wears the uniform of the organization to which he or she belongs.

(d) No employer or officer or agent of any corporation, company, or firm, or other person, shall discharge any person from employment because of the performance of any ordered military duty or training or by reason of being an officer, warrant officer, or enlisted member of the military or naval forces of this state, or hinder or prevent that person from performing any military service or from attending any military encampment or place of drill or instruction he or she may be called upon to perform or attend by proper authority; prejudice or harm him or her in any manner in his or her employment, position, or status by reason of performance of military service or duty or attendance at military encampments or places of drill or instruction; or dissuade, prevent, or stop any person from enlistment or accepting a warrant or commission in the California National Guard or Naval Militia by threat or injury to him or her in respect to his or her employment, position, status, trade, or business because of enlistment or acceptance of a warrant or commission.

(e) (1) No private employer or officer or agent of any corporation, company, or firm, or other person, shall restrict or terminate any collateral benefit for employees by reason of an employee's temporary incapacitation incident to duty in the National Guard or Naval Militia. As used in this subdivision, "temporary incapacitation" means any period of incapacitation of 52 weeks or less.

(2) As used in this subdivision, "benefit" includes, but is not limited to, health care which may be continued at the employee's expense, life insurance, disability insurance, and seniority status.

(f) No person who provides lending or financing shall discriminate against any person with respect to the terms of a loan or financing, including, but not limited to, the finance charge, based on that person's membership in the military or naval forces of this state or of the United States. With respect to any loan or credit transaction covered by Section 670 of Public Law 109-364 and Section 232 of Title 32 of the Code of Federal Regulations, as published on August 31, 2007, in Volume 72 of the Federal Register, a person that does not market or extend those transactions to covered borrowers shall not be in violation of this section.

For purposes of this section, a covered borrower has the same meaning as provided for in Section 232 of Title 32 of the Code of Federal Regulations, as published on August 31, 2007, in Volume 72 of the Federal Register.

(g) Any person violating this section is guilty of a misdemeanor. In addition, any person violating any of the provisions of this section shall be liable for actual damages and reasonable attorney's fees incurred by the injured party.

(h) The remedies provided for in this section are not intended to be exclusive but are in addition to the remedies provided for in other laws, including Sections 51 and 52 of the Civil Code.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 7. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to protect armed service members and their families at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 359

An act to amend Sections 3103.5 and 3110 of the Elections Code, relating to voting.

[Approved by Governor October 9, 2007. Filed with Secretary of State October 9, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 3103.5 of the Elections Code is amended to read:

3103.5. (a) (1) A special absentee voter who is temporarily living outside of the territorial limits of the United States or the District of Columbia, or is called for military service within the United States on or after the final date to make application for an absent voter's ballot,

may return his or her ballot by facsimile transmission. To be counted, the ballot returned by facsimile transmission must be received by the voter's elections official no later than the closing of the polls on election day and must be accompanied by an identification envelope containing all of the information required by Section 3011 and an oath of voter declaration in substantially the following form:

OATH OF VOTER

I, _____, acknowledge that by returning my voted

ballot by facsimile transmission I have waived my right to have my ballot kept secret. Nevertheless, I understand that, as with any absentee voter, my signature, whether on this oath of voter form or my identification envelope, will be permanently separated from my voted ballot to maintain its secrecy at the outset of the tabulation process and thereafter.

My residence address is _____ .
(Street Address) (City) (ZIP Code)

My current mailing address is _____ .
(Street Address) (City) (ZIP Code)

My e-mail address is _____. My facsimile transmission number is _____.

I am a resident of _____ County, State of California, and I have not applied, nor intend to apply, for an absentee ballot from any other jurisdiction for the same election.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated this _____ day of _____, 20_____.

(Signature)_____
voter (power of attorney cannot be accepted)

YOUR BALLOT CANNOT BE COUNTED UNLESS YOU SIGN THE ABOVE OATH AND INCLUDE IT WITH YOUR BALLOT AND IDENTIFICATION ENVELOPE, ALL OF WHICH ARE RETURNED BY FACSIMILE TRANSMISSION.

(2) Notwithstanding the voter's waiver of the right to a secret ballot, each elections official shall adopt appropriate procedures to protect the secrecy of absentee ballots returned by facsimile transmission.

(3) Upon receipt of an absentee ballot returned by facsimile transmission, the elections official shall determine the voter's eligibility to vote by comparing the signature on the return information with the signature on the voter's affidavit of registration. The ballot shall be duplicated and all materials preserved according to procedures set forth in this code.

(4) Notwithstanding paragraph (1), a special absentee voter who is permitted to return his or her ballot by facsimile transmission is, nonetheless, encouraged to return his or her ballot by mail or in person if possible. A special absentee voter should return a ballot by facsimile transmission only if doing so is necessary for the ballot to be received before the close of polls on election day.

(b) The Secretary of State shall make a recommendation to the Legislature, no later than December 31, 2008, on the benefits and problems, if any, derived from permitting qualified special absentee voters to return their ballots by facsimile transmission, and shall include in the recommendation the number of ballots returned by facsimile transmission pursuant to this section.

(c) This section shall remain in effect only until January 1, 2009, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2009, deletes or extends that date.

SEC. 1.5. Section 3103.5 of the Elections Code is amended to read:

3103.5. (a) (1) A special absentee voter who is temporarily living outside of the territorial limits of the United States or the District of Columbia, or is called for military service within the United States on or after the final date to make application for a vote by absent voter ballot, may return his or her ballot by facsimile transmission. To be counted, the ballot returned by facsimile transmission must be received by the voter's elections official no later than the closing of the polls on election day and must be accompanied by an identification envelope containing all of the information required by Section 3011 and an oath of voter declaration in substantially the following form:

OATH OF VOTER

I, _____, acknowledge that by returning my voted ballot by facsimile transmission I have waived my right to have my ballot kept secret. Nevertheless, I understand that, as with any vote by mail voter, my signature, whether on this oath of voter form or my identification envelope, will be permanently separated from my voted ballot to maintain its secrecy at the outset of the tabulation process and thereafter.

My residence address is_____.
(Street Address) (City) (ZIP Code)

My current mailing address is _____.
(Street Address) (City) (ZIP Code)

My e-mail address is _____. My facsimile transmission number is _____.

I am a resident of _____ County, State of California, and I have not applied, nor intend to apply, for a vote by mail ballot from any other jurisdiction for the same election.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated this _____ day of _____, 20_____.

(Signature)_____
voter (power of attorney cannot be accepted)

YOUR BALLOT CANNOT BE COUNTED UNLESS YOU SIGN THE ABOVE OATH AND INCLUDE IT WITH YOUR BALLOT AND IDENTIFICATION ENVELOPE, ALL OF WHICH ARE RETURNED BY FACSIMILE TRANSMISSION.

(2) Notwithstanding the voter's waiver of the right to a secret ballot, each elections official shall adopt appropriate procedures to protect the secrecy of ballots returned by facsimile transmission.

(3) Upon receipt of a ballot returned by facsimile transmission, the elections official shall determine the voter's eligibility to vote by comparing the signature on the return information with the signature on the voter's affidavit of registration. The ballot shall be duplicated and all materials preserved according to procedures set forth in this code.

(4) Notwithstanding paragraph (1), a special absentee voter who is permitted to return his or her ballot by facsimile transmission is, nonetheless, encouraged to return his or her ballot by mail or in person if possible. A special absentee voter should return a ballot by facsimile transmission only if doing so is necessary for the ballot to be received before the close of polls on election day.

(b) The Secretary of State shall make a recommendation to the Legislature, no later than December 31, 2008, on the benefits and

problems, if any, derived from permitting qualified special absentee voters to return their ballots by facsimile transmission, and shall include in the recommendation the number of ballots returned by facsimile transmission pursuant to this section.

(c) This section shall remain in effect only until January 1, 2009, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2009, deletes or extends that date.

SEC. 2. Section 3110 of the Elections Code is amended to read:

3110. If a special absentee voter is unable to appear at his or her polling place because of being recalled to service after the final day for making application for an absent voter's ballot, but before 5 p.m. on the day before the day of election, he or she may appear before the elections official in the county in which the special absentee voter is registered or, if within the state, in the county in which he or she is recalled to service and make application for an absent voter's ballot, which may be submitted by facsimile, or by e-mail or online transmission if the elections official makes the transmission option available. The elections official shall deliver to him or her an absent voter's ballot which may be voted in the elections official's office or voted outside the elections official's office on or before the close of the polls on the day of election and returned as are other absent voter's ballots. To be counted, the ballot must be returned to the elections official's office in person, by facsimile transmission, or by an authorized person on or before the close of the polls on the day of the election. If the special absentee voter appears in the county in which he or she is recalled to service, rather than the county to which he or she is registered, the elections official shall coordinate with the elections official in the county in which the special absentee voter is registered to provide the absent voter's ballot that contains the appropriate measures and races for the precinct in which the special absentee voter is registered.

SEC. 2.5. Section 3110 of the Elections Code is amended to read:

3110. If a special absentee voter is unable to appear at his or her polling place because of being recalled to service after the final day for making application for a vote by mail ballot, but before 5 p.m. on the day before the day of election, he or she may appear before the elections official in the county in which the special absentee voter is registered or, if within the state, in the county in which he or she is recalled to service and make application for a vote by mail ballot, which may be submitted by facsimile, or by e-mail or online transmission if the elections official makes the transmission option available. The elections official shall deliver to him or her a vote by mail ballot which may be voted in the elections official's office or voted outside the elections official's office on or before the close of the polls on the day of election and

returned as are other vote by mail ballots. To be counted, the ballot must be returned to the elections official's office in person, by facsimile transmission, or by an authorized person on or before the close of the polls on the day of the election. If the special absentee voter appears in the county in which he or she is recalled to service, rather than the county to which he or she is registered, the elections official shall coordinate with the elections official in the county in which the special absentee voter is registered to provide the absentee ballot that contains the appropriate measures and races for the precinct in which the special absentee voter is registered.

SEC. 3. Section 1.5 of this bill incorporates amendments to Section 3103.5 of the Elections Code proposed by both this bill and AB 1243. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2008, (2) each bill amends Section 3103.5 of the Elections Code, and (3) this bill is enacted after AB 1243, in which case Section 1 of this bill shall not become operative.

SEC. 4. Section 2.5 of this bill incorporates amendments to Section 3110 of the Elections Code proposed by both this bill and AB 1243. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2008, (2) each bill amends Section 3110 of the Elections Code, and (3) this bill is enacted after AB 1243, in which case Section 2 of this bill shall not become operative.

SEC. 5. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

CHAPTER 360

An act to add Section 648.1 to the Military and Veterans Code, relating to military decorations.

[Approved by Governor October 9, 2007. Filed with Secretary of State October 9, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 648.1 is added to the Military and Veterans Code, to read:

648.1. (a) Any person who, orally, in writing, or by wearing any military decoration, falsely represents himself or herself to have been

awarded any military decoration, with the intent to defraud, is guilty of an infraction.

(b) For purposes of this section, "military decoration" means any decoration or medal from the Armed Forces of the United States, the California National Guard, State Military Reserve, or Naval Militia, or any service medals or badges awarded to the members of such forces, or the ribbon, button, or rosette of any such badge, decoration, or medal, or any colorable imitation of such item.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CHAPTER 361

An act to add Section 395.10 to the Military and Veterans Code, relating to military benefits, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 9, 2007. Filed with Secretary of State October 9, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 395.10 is added to the Military and Veterans Code, to read:

395.10. (a) Notwithstanding any other provision of law, a qualified employer shall allow a qualified employee to take up to 10 days of unpaid leave during a qualified leave period.

(b) For purposes of this section:

(1) "Period of military conflict" means either of the following:

(A) A period of war declared by the United States Congress.

(B) A period of deployment for which a member of a reserve component is ordered to active duty pursuant to either of the following:

(i) Sections 12301 and 12302 of Title 10 of the United States Code.

(ii) Title 32 of the United States Code.

(2) "Qualified employee" means a person who satisfies all of the following:

(A) Is the spouse of a qualified member.

(B) Performs service for hire for an employer for an average of 20 or more hours per week, but does not include an independent contractor.

(C) Provides the qualified employer with notice, within two business days of receiving official notice that the qualified member will be on leave from deployment, of his or her intention to take the leave provided for in subdivision (a).

(D) Submits written documentation to the qualified employer certifying that the qualified member will be on leave from deployment during the time the leave provided for in subdivision (a) is requested.

(3) "Qualified employer" includes any individual, corporation, company, firm, state, city, county, city and county, municipal corporation, district, public authority, or any other governmental subdivision, that employs 25 or more employees.

(4) "Qualified member" means a person who is any of the following:

(A) A member of the Armed Forces of the United States who has been deployed during a period of military conflict to an area designated as a combat theater or combat zone by the President of the United States.

(B) A member of the National Guard who has been deployed during a period of military conflict.

(C) A member of the Reserves who has been deployed during a period of military conflict.

(5) "Qualified leave period" means the period during which the qualified member is on leave from deployment during a period of military conflict.

(c) A qualified employer shall not retaliate against a qualified employee for requesting or taking the leave provided for in this section.

(d) The leave provided for in this section shall not affect or prevent a qualified employer from allowing a qualified employee to take a leave that the qualified employee is otherwise entitled to take.

(e) This section shall not affect a qualified employee's rights with respect to any other employee benefit provided for in other laws.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to serve the families of those troops currently serving in military conflicts in Iraq and Afghanistan, and to assure that these families are able to spend time together during the qualified member's leave from deployment, it is necessary that this act take effect immediately.

CHAPTER 362

An act to amend Section 68075 of the Education Code, relating to public postsecondary education.

[Approved by Governor October 9, 2007. Filed with Secretary of State October 9, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 68075 of the Education Code is amended to read:

68075. (a) An undergraduate student who is a member of the Armed Forces of the United States stationed in this state on active duty, except a member of the Armed Forces assigned for educational purposes to a state-supported institution of higher education, is entitled to resident classification only for the purpose of determining the amount of tuition and fees.

(b) A student seeking a graduate degree who is a member of the Armed Forces of the United States stationed in this state on active duty, except a member of the Armed Forces assigned for educational purposes to a state-supported institution of higher education, shall be entitled to resident classification only for the purpose of determining the amount of tuition and fees for no more than two academic years, and shall thereafter be subject to Article 5 (commencing with Section 68060).

CHAPTER 363

An act to add Section 823.5 to the Military and Veterans Code, relating to military service.

[Approved by Governor October 9, 2007. Filed with Secretary of State October 9, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 823.5 is added to the Military and Veterans Code, to read:

823.5. (a) No person or entity licensed under the Business and Professions Code, Corporations Code, Financial Code, or Insurance Code shall market financial services or products to a service member or former service member, or the spouse of a service member or former

service member, in a misleading or deceptive manner that suggests any of the following:

(1) That the person or entity marketing the financial service or product is acting on behalf of one or more branches of the United States military or the United States Department of Veterans Affairs.

(2) That the person or entity marketing the financial service or product is an affiliate of one or more branches of the United States military or the United States Department of Veterans Affairs.

(3) That the financial service or product is being offered on behalf of one or more branches of the United States military or the United States Department of Veterans Affairs.

(b) If a person who violates this section is licensed under any state licensing law, a violation of this section shall be deemed a violation of the laws under which that person is licensed.

(c) This section shall not apply to either of the following:

(1) Any bank as defined in Section 102 of the Financial Code.

(2) Any credit union as defined in Section 14002 of the Financial Code.

(d) For purposes of this section:

(1) "Service member" means any of the following:

(A) An active duty member of the Armed Forces of the United States.

(B) An officer or enlisted member of the National Guard called or ordered into active state service by the Governor pursuant to Section 143 or 146, or into active federal service by the President of the United States, pursuant to Title 10 or 32 of the United States Code, for a period of 30 days or more.

(C) A reservist of the United States Military Reserve who has been called to full-time active duty for a period of 30 days or more.

(2) "Former service member" means a veteran as defined by Section 980.

CHAPTER 364

An act to add Sections 65007, 65302.9, 65860.1, 65865.5, 65962, and 66474.5 to, the Government Code, to add Section 50465 to the Health and Safety Code, and to add Chapter 4 (commencing with Section 8200) to Part 1 of, and to add Part 6 (commencing with Section 9600) to, Division 5 of, the Water Code, relating to flood management.

[Approved by Governor October 10, 2007. Filed with Secretary of State October 10, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 65007 is added to the Government Code, to read:

65007. As used in this title, the following terms have the following meanings, unless the context requires otherwise:

(a) "Adequate progress" means all of the following:

(1) The total project scope, schedule, and cost of the completed flood protection system have been developed to meet the appropriate standard of protection.

(2) Revenues sufficient to fund each year of the project schedule developed in paragraph (1) have been identified and, in any given year and consistent with that schedule, at least 90 percent of the revenues scheduled to have been received by that year have been appropriated and are currently being expended.

(3) Critical features of the flood protection system are under construction, and each critical feature is progressing as indicated by the actual expenditure of the construction budget funds.

(4) The city or county has not been responsible for any significant delay in the completion of the system.

(5) The local flood management agency shall provide the Department of Water Resources and the Central Valley Flood Protection Board with the information specified in this subdivision sufficiently to determine substantial completion of the required flood protection. The local flood management agency shall annually report to the Central Valley Flood Protection Board on the efforts in working toward completion of the flood protection system.

(b) "Central Valley Flood Protection Plan" has the same meaning as that set forth in Section 9610 of the Water Code.

(c) "Developed area" has the same meaning as that set forth in Section 59.1 of Title 44 of the Code of Federal Regulations.

(d) "Flood hazard zone" means an area subject to flooding that is delineated as either a special hazard area or an area of moderate hazard on an official flood insurance rate map issued by the Federal Emergency Management Agency. The identification of flood hazard zones does not imply that areas outside the flood hazard zones, or uses permitted within flood hazard zones, will be free from flooding or flood damage.

(e) "Nonurbanized area" means a developed area or an area outside a developed area in which there are less than 10,000 residents.

(f) "Project levee" means any levee that is part of the facilities of the State Plan of Flood Control, as defined in Section 5096.805 of the Public Resources Code.

(g) "Sacramento-San Joaquin Valley" means any lands in the bed or along or near the banks of the Sacramento River or San Joaquin River, or any of their tributaries or connected therewith, or upon any land adjacent thereto, or within any of the overflow basins thereof, or upon any land susceptible to overflow therefrom. The Sacramento-San Joaquin Valley does not include lands lying within the Tulare Lake basin, including the Kings River.

(h) "State Plan of Flood Control" has the same meaning as that set forth in subdivision (j) of Section 5096.805 of the Public Resources Code.

(i) "Urban area" means a developed area in which there are 10,000 residents or more.

(j) "Urbanizing area" means a developed area or an area outside a developed area that is planned or anticipated to have 10,000 residents or more within the next 10 years.

(k) "Urban level of flood protection" means the level of protection that is necessary to withstand flooding that has a 1-in-200 chance of occurring in any given year using criteria consistent with, or developed by, the Department of Water Resources.

SEC. 2. Section 65302.9 is added to the Government Code, to read:

65302.9. (a) Within 24 months of the adoption of the Central Valley Flood Protection Plan by the Central Valley Flood Protection Board pursuant to Section 9612 of the Water Code, each city and county within the Sacramento-San Joaquin Valley, shall amend its general plan to contain all of the following:

(1) The data and analysis contained in the Central Valley Flood Protection Plan, including, but not limited to, the locations of the facilities of the State Plan of Flood Control, the locations of other flood management facilities, the locations of the real property protected by those facilities, and the locations of flood hazard zones.

(2) Goals, policies, and objectives, based on the data and analysis identified pursuant to paragraph (1), for the protection of lives and property that will reduce the risk of flood damage.

(3) Feasible implementation measures designed to carry out the goals, policies, and objectives established pursuant to paragraph (2).

(b) To assist each city or county in complying with this section, the Central Valley Flood Protection Board, the Department of Water Resources, and local flood agencies shall collaborate with cities or counties by providing them with information and other technical assistance.

(c) In implementing this section, each city and county, both general law and charter, within the Sacramento-San Joaquin Valley, shall comply

with this article, including, but not limited to, Sections 65300.5, 65300.7, 65300.9, and 65301.

(d) Notwithstanding any other provision of law, this section applies to all cities, including charter cities, and counties within the Sacramento-San Joaquin Valley. The Legislature finds and declares that flood protection in the Sacramento and San Joaquin Rivers drainage areas is a matter of statewide concern and not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution.

SEC. 3. Section 65860.1 is added to the Government Code, to read:

65860.1. (a) Within 36 months of the adoption Central Valley Flood Protection Plan by the Central Valley Flood Protection Board pursuant to Section 9612 of the Water Code, but not more than 12 months after the amendment of its general plan pursuant to Section 65302.9, each city and county within the Sacramento-San Joaquin Valley shall amend its zoning ordinance so that it is consistent with the general plan, as amended.

(b) Notwithstanding any other provision of law, this section applies to all cities, including charter cities, and counties within the Sacramento-San Joaquin Valley. The Legislature finds and declares that flood protection in the Sacramento and San Joaquin Rivers drainage areas is a matter of statewide concern and not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution.

SEC. 4. Section 65865.5 is added to the Government Code, to read:

65865.5. (a) Notwithstanding any other provision of law, after the amendments required by Section 65302.9 and 65860.1 have become effective, the legislative body of a city or county within the Sacramento-San Joaquin Valley shall not enter into a development agreement for any property that is located within a flood hazard zone unless the city or county finds, based on substantial evidence in the record, one of the following:

(1) The facilities of the State Plan of Flood Control or other flood management facilities protect the property to the urban level of flood protection in urban and urbanizing areas or the national Federal Emergency Management Agency standard of flood protection in nonurbanized areas.

(2) The city or county has imposed conditions on the development agreement that will protect the property to the urban level of flood protection in urban and urbanizing areas or the national Federal Emergency Management Agency standard of flood protection in nonurbanized areas.

(3) The local flood management agency has made adequate progress on the construction of a flood protection system which will result in flood protection equal to or greater than the urban level of flood

protection in urban or urbanizing areas or the national Federal Emergency Management Agency standard of flood protection in nonurbanized areas for property located within a flood hazard zone, intended to be protected by the system. For urban and urbanizing areas protected by project levees, the urban level of flood protection shall be achieved by 2025.

(b) The effective date of amendments referred to in this section shall be the date upon which the statutes of limitation specified in subdivision (c) of Section 65009 have run or, if the amendments and any associated environmental documents are challenged in court, the validity of the amendments and any associated environmental documents has been upheld in a final decision.

(c) Nothing in this section shall be construed to change or diminish existing requirements of local floodplain management laws, ordinances, resolutions, or regulations necessary to local agency participation in the national flood insurance program.

SEC. 5. Section 65962 is added to the Government Code, to read:

65962. (a) Notwithstanding any other provision of law, after the amendments required by Sections 65302.9 and 65860.1 have become effective, each city and county within the Sacramento-San Joaquin Valley shall not approve any discretionary permit or other discretionary entitlement, or any ministerial permit that would result in the construction of a new residence, for a project that is located within a flood hazard zone unless the city or county finds, based on substantial evidence in the record, one of the following:

(1) The facilities of the State Plan of Flood Control or other flood management facilities protect the project to the urban level of flood protection in urban and urbanizing areas or the national Federal Emergency Management Agency standard of flood protection in nonurbanized areas.

(2) The city or county has imposed conditions on the permit or discretionary entitlement that will protect the project to the urban level of flood protection in urban and urbanizing areas or the national Federal Emergency Management Agency standard of flood protection in nonurbanized areas.

(3) The local flood management agency has made adequate progress on the construction of a flood protection system which will result in flood protection equal to or greater than the urban level of flood protection in urban or urbanizing areas or the national Federal Emergency Management Agency standard of flood protection in nonurbanized areas for property located within a flood hazard zone, intended to be protected by the system. For urban and urbanizing areas protected by project levees, the urban level of flood protection shall be achieved by 2025.

(b) The effective date of amendments referred to in this section shall be the date upon which the statutes of limitation specified in subdivision (c) of Section 65009 have run or, if the amendments and any associated environmental documents are challenged in court, the validity of the amendments and any associated environmental documents has been upheld in a final decision.

(c) Nothing in this section shall be construed to change or diminish existing requirements of local floodplain management laws, ordinances, resolutions, or regulations necessary to local agency participation in the national flood insurance program.

SEC. 6. Section 66474.5 is added to the Government Code, to read:

66474.5. (a) Notwithstanding any other provision of law, after the amendments required by Sections 65302.9 and 65860.1 have become effective, the legislative body of each city and county within the Sacramento-San Joaquin Valley shall deny approval of a tentative map, or a parcel map for which a tentative map was not required, for any subdivision that is located within a flood hazard zone unless the city or county finds, based on substantial evidence in the record, one of the following:

(1) The facilities of the State Plan of Flood Control or other flood management facilities protect the subdivision to the urban level of flood protection in urban and urbanizing areas or the national Federal Emergency Management Agency standard of flood protection in nonurbanized areas.

(2) The city or county has imposed conditions on the subdivision that will protect the project to the urban level of flood protection in urban and urbanizing areas or the national Federal Emergency Management Agency standard of flood protection in nonurbanized areas.

(3) The local flood management agency has made adequate progress on the construction of a flood protection system which will result in flood protection equal to or greater than the urban level of flood protection in urban or urbanizing areas or the national Federal Emergency Management Agency standard of flood protection in nonurbanized areas for property located within a flood hazard zone, intended to be protected by the system. For urban and urbanizing areas protected by project levees, the urban level of flood protection shall be achieved by 2025.

(b) The effective date of amendments referred to in this section shall be the date upon which the statutes of limitation specified in subdivision (c) of Section 65009 have run or, if the amendments and any associated environmental documents are challenged in court, the validity of the amendments and any associated environmental documents has been upheld in a final decision.

(c) Nothing in this section shall be construed to change or diminish existing requirements of local floodplain management laws, ordinances, resolutions, or regulations necessary to local agency participation in the national flood insurance program.

SEC. 7. Section 50465 is added to the Health and Safety Code, to read:

50465. (a) On or before January 1, 2009, the Department of Water Resources shall propose for adoption and approval by the California Building Standards Commission updated requirements to the California Building Standards Code for construction in areas protected by the facilities of the Central Valley Flood Protection Plan where flood levels are anticipated to exceed three feet for the 200-year flood event. The amendments to the California Building Standards Code shall be sufficient to reduce the risk of flood damage and to protect life, safety, and the construction in those areas.

(b) Before the department proposes the amendments to the California Building Standards Code required pursuant to subdivision (a), the department shall consult with the Central Valley Flood Protection Board, the Division of the State Architect, and the Office of the State Fire Marshal.

SEC. 8. Chapter 4 (commencing with Section 8200) is added to Part 1 of Division 5 of the Water Code, to read:

Chapter 4. Local Plans of Flood Protection

8200. This chapter shall be known and may be cited as the Local Flood Protection Planning Act.

8201. (a) A local agency may prepare a local plan of flood protection in accordance with this chapter.

(b) A local plan of flood protection shall include all of the following:

(1) A strategy to meet the urban level of flood protection, including planning for residual flood risk and system resiliency.

(2) Identification of all types of flood hazards.

(3) Identification and risk assessment of the various facilities that provide flood protection for flood hazard areas, for current and future land uses.

(4) Identification of current and future flood corridors.

(5) Identification of needed improvements and costs of those improvements to the flood protection facilities that are necessary to meet flood protection standards.

(6) An emergency response and evacuation plan for flood-prone areas.

(7) A strategy to achieve multiple benefits, including flood protection, groundwater recharge, ecosystem health, and reduced maintenance costs over the long term.

(8) A long-term funding strategy for improvement and ongoing maintenance and operation of flood protection facilities.

(c) A local agency that is not a city or county that prepares a plan pursuant to this chapter must consult with the cities and counties that have jurisdiction over the planning area to assure that the local plan of flood protection is consistent with local general plans.

(d) Plans prepared pursuant to this chapter, within the Sacramento-San Joaquin Valley as defined by Section 9602, shall be consistent with the Central Valley Flood Protection Plan pursuant to Section 9610.

SEC. 9. Part 6 (commencing with Section 9600) is added to Division 5 of the Water Code, to read:

PART 6. CENTRAL VALLEY FLOOD PROTECTION

Chapter 1. General Provisions

9600. This act shall be known and may be cited as the Central Valley Flood Protection Act of 2008.

9601. The Legislature finds and declares all of the following:

(a) The Central Valley of California is experiencing unprecedented development, resulting in the conversion of historically agricultural lands and communities to densely populated residential and urban centers.

(b) The Legislature recognizes that by their nature, levees, which are earthen embankments typically founded on fluvial deposits, cannot offer complete protection from flooding, but can decrease its frequency.

(c) The Legislature recognizes that the level of flood protection afforded rural and agricultural lands by the original flood control system would not be adequate to protect those lands if they are developed for urban uses, and that a dichotomous system of flood protection for urban and rural lands has developed through many years of practice.

(d) The Legislature further recognizes that levees built to reclaim and protect agricultural land may be inadequate to protect urban development unless those levees are significantly improved.

(e) Cities and counties rely upon federal flood plain information when approving developments, but the information available is often out of date and the flood risk may be greater than that indicated using available federal information.

(f) The Legislature recognizes that the current federal flood standard is not sufficient in protecting urban and urbanizing areas within flood prone areas throughout the Central Valley.

(g) Linking land use decisions to flood risk and flood protection estimates comprises only one element of improving lives and property in the Central Valley. Federal, state, and local agencies may construct and operate flood protection facilities to reduce flood risks, but flood risks will nevertheless remain for those who choose to reside in Central Valley flood plains. Making those flood risks more apparent will help ensure that Californians make careful choices when deciding whether to build homes or live in Central Valley flood plains, and if so, whether to prepare for flooding or maintain flood insurance.

9602. Unless the context requires otherwise, the definitions set forth in this section govern the construction of this part.

(a) "Board" means the Central Valley Flood Protection Board.

(b) "Plan" means the Central Valley Flood Protection Plan.

(c) "Project levee" means any levee that is part of the facilities of the State Plan of Flood Control, as defined in Section 5096.805 of the Public Resources Code.

(d) "Public safety infrastructure" means public safety infrastructure necessary to respond to a flood emergency, including, but not limited to, street and highway evacuation routes, public utilities necessary for public health and safety, including drinking water and wastewater treatment facilities, and hospitals.

(e) "Sacramento-San Joaquin Valley" means any lands in the bed or along or near the banks of the Sacramento River or San Joaquin River, or any of their tributaries or connected therewith, or upon any land adjacent thereto, or within any of the overflow basins thereof, or upon any land susceptible to overflow therefrom. The Sacramento-San Joaquin Valley does not include lands lying within the Tulare Lake basin, including the Kings River.

(f) "State Plan of Flood Control" has the meaning set forth in subdivision (j) of Section 5096.805 of the Public Resources Code.

(g) "System" means the Sacramento-San Joaquin River Flood Management System described in Section 9611.

(h) "Urban area" has the same meaning as that set forth in subdivision (k) of Section 5096.805 of the Public Resources Code.

(i) "Urban level of flood protection" means the level of protection that is necessary to withstand flooding that has a 1-in-200 chance of occurring in any given year using criteria consistent with, or developed by, the department.

9603. (a) The Central Valley Flood Protection Plan shall be a descriptive document, and neither the plan nor anything in this part shall be construed to expand the liability of the state for the operation or maintenance of any flood management facility beyond the scope of the State Plan of Flood Control, except as specifically determined by the

board pursuant to Section 9611. Neither the development nor the adoption of the Central Valley Flood Protection Plan shall be construed to constitute any commitment by the state to provide, to continue to provide, or to maintain at, or to increase flood protection to, any particular level.

(b) The Central Valley Flood Protection Plan reflects a systemwide approach to protecting the lands currently protected from flooding by existing facilities of the State Plan of Flood Control. Any flood protection benefits accruing to lands or communities outside the State Plan of Flood Control are incidental and shall not constitute any commitment by the state to provide, to continue to provide, or to maintain at, or to increase flood protection to, any particular level.

Chapter 2. Plan Development

9610. (a) By July 1, 2008, the department shall develop preliminary maps for the 100 and 200 year floodplains protected by project levees. The 100 year floodplain maps shall be prepared using criteria developed or accepted by the Federal Emergency Management Agency (FEMA).

(1) The department shall use available information from the 2002 Sacramento-San Joaquin River Basin Comprehensive Study, preliminary and regulatory FEMA flood insurance rate maps, recent floodplain studies and other sources to compile preliminary maps.

(2) The department shall provide the preliminary maps to cities and counties within the Sacramento-San Joaquin Valley for use as best available information relating to flood protection.

(3) The department shall post this information on the boards Internet Web site and may periodically update the maps as necessary.

(b) By July 1, 2008, the department shall give notice to cities in the Sacramento-San Joaquin Valley outside areas protected by project levees regarding maps and other information as to flood risks available from the Federal Emergency Management Agency or other federal, state or local agency.

(c) On or before December 31, 2010, the department shall prepare a status report on the progress and development of the Central Valley Flood Protection Plan pursuant to Section 9612. The department shall post this information on the board's Internet Web site, and make it available to the public.

9611. The Sacramento-San Joaquin River Flood Management System comprises all of the following:

(a) The facilities of the State Plan of Flood Control as that plan may be amended pursuant to this part.

(b) Any existing dam, levee, or other flood management facility that is not part of the State Plan of Flood Control if the board determines,

upon recommendation of the department, that the facility does one or more of the following:

(1) Provides significant systemwide benefits for managing flood risks within the Sacramento-San Joaquin Valley.

(2) Protects urban areas within the Sacramento-San Joaquin Valley.

(c) Upon completion of the Central Valley Flood Protection Plan pursuant to this part, the department may identify and propose to the board additional structural and nonstructural facilities that may become facilities of the State Plan of Flood Control, consistent with the Central Valley Flood Protection Plan. The board may add those facilities to the State Plan of Flood Control based on a determination showing how the facility accomplishes the purposes identified in subdivision (b).

(d) For the purposes of subdivision (c), facilities that may become facilities of the State Plan of Flood Control include bypasses, floodway corridors, flood plain storage, or other projects that expand the capacity of the flood protection system in the Sacramento-San Joaquin Valley to provide flood protection.

9612. (a) The department shall prepare, and the board shall adopt, a plan identified as the Central Valley Flood Protection Plan in accordance with this part.

(b) No later than January 1, 2012, the department shall prepare the Central Valley Flood Protection Plan in accordance with this part, and shall transmit the plan to the board, which shall adopt the plan no later than July 1, 2012.

(c) The board shall hold at least two hearings to receive comments on the proposed plan. At least one hearing shall be held in the Sacramento Valley and at least one hearing shall be held in the San Joaquin Valley. The board shall also accept comments in writing with regard to the proposed plan.

(d) The board may make changes to the proposed plan to resolve issues raised in the hearings or to respond to comments received by the board. The board shall publish its proposed changes to the proposed plan at least two weeks before adopting the plan.

(e) The plan shall be updated in subsequent years ending in 2 and 7.

(f) The department or the board may appoint one or more advisory committees to assist in the preparation of the plan. If the department or the board appoints one or more advisory committees, the advisory committee or committees shall include representation by interested organizations.

9613. (a) Consistent with subdivision (b) of Section 5096.821 of the Public Resources Code, the department may implement flood protection improvements for urban areas protected by facilities of the State Plan of Flood Control before the adoption of Central Valley Flood

Protection Plan if the director determines, in writing, that all of the following apply:

(1) The improvements are necessary and require state funding before the completion of the Central Valley Flood Protection Plan prepared pursuant to Section 9612.

(2) The improvements will reduce or avoid risk to human life in one or more urban areas.

(3) The improvements will not impair or impede future changes to regional flood protection or the Central Valley Flood Protection Plan.

(4) The improvements will be maintained by a local agency that has committed sufficient funding to maintain both the existing and improved facilities of the State Plan of Flood Control.

(5) The affected cities, counties, and other public agencies will have sufficient revenue resources for the operation and maintenance of the facility.

(6) Upon the allocation of funds for a project, the proposed project is ready for implementation.

(7) The improvements comply with existing law.

(b) The flood protection improvements authorized by this section may include improvements to specific facilities of the State Plan of Flood Control or acquisition of flood easements for floodways that support facilities of the State Plan of Flood Control to increase levels of flood protection for urban areas in accordance with subdivision (b) of Section 5096.821 of the Public Resources Code.

(c) The department and the board shall investigate and evaluate the feasibility of potential bypasses or floodways that would significantly reduce flood stage in the San Joaquin River Watershed, upstream and south of Paradise Cut.

9614. The plan shall include all of the following:

(a) A description of the Sacramento-San Joaquin River Flood Management System and the cities and counties included in the system.

(b) A description of the performance of the system and the challenges to modifying the system to provide appropriate levels of flood protection using available information.

(c) A description of the facilities included in the State Plan of Flood Control, including all of the following:

(1) The precise location and a brief description of each facility, a description of the population and property protected by the facility, the system benefits provided by the facility, if any, and a brief history of the facility, including the year of construction, major improvements to the facility, and any failures of the facility.

(2) The design capacity of each facility.

(3) A description and evaluation of the performance of each facility, including the following:

(A) An evaluation of failure risks due to each of the following:

(i) Overtopping.

(ii) Under seepage and seepage.

(iii) Structural failure.

(iv) Other sources of risk, including seismic risks, that the department or the board determines are applicable.

(B) A description of any uncertainties regarding performance capability, including uncertainties arising from the need for additional engineering evaluations or uncertainties arising from changed conditions such as changes in estimated channel capacities.

(d) A description of each existing dam that is not part of the State Plan of Flood Control that provides either significant systemwide benefits for managing flood risks within the Sacramento-San Joaquin Valley or protects urban areas within the Sacramento-San Joaquin Valley.

(e) A description of each existing levee and other flood management facility not described in subdivision (d) that is not part of the State Plan of Flood Control that provides either significant systemwide benefits for managing flood risks within the Sacramento-San Joaquin Valley or protects an urban area as defined by subdivision (k) of Section 5096.805 of the Public Resources Code.

(f) A description of the probable impacts of projected climate change, projected land use patterns, and other potential flood management challenges on the ability of the system to provide adequate levels of flood protection.

(g) An evaluation of the structural improvements and repairs necessary to bring each of the facilities of the State Plan of Flood Control to within its design standard. The evaluation shall include a prioritized list of recommended actions necessary to bring each facility not identified in subdivision (h) to within its design standard.

(h) The evaluation shall include a list of facilities recommended to be removed from the State Plan of Flood Control. For each facility recommended for removal, the evaluation shall identify both of the following:

(1) The reasons for proposing the removal of the facility from the State Plan of Flood Control.

(2) Any additional recommended actions associated with removing the facility from the State Plan of Flood Control.

(i) A description of both structural and nonstructural methods for providing an urban level of flood protection to current urban areas where an urban area means the same as set forth in subdivision (k) of Section

5096.805 of the Public Resources Code. The description shall also include a list of recommended next steps to improve urban flood protection.

(j) A description of structural and nonstructural means for enabling or improving systemwide riverine ecosystem function, including, but not limited to, establishment of riparian habitat and seasonal inundation of available flood plains where feasible.

9615. For the purposes of preparing the plan, the department shall collaborate with the United States Army Corps of Engineers and the owners and operators of flood management facilities.

9616. (a) The plan shall include a description of both structural and nonstructural means for improving the performance and elimination of deficiencies of levees, weirs, bypasses, and facilities, including facilities of the State Plan of Flood Control, and, wherever feasible, meet multiple objectives, including each of the following:

(1) Reduce the risk to human life, health, and safety from flooding, including protection of public safety infrastructure.

(2) Expand the capacity of the flood protection system in the Sacramento-San Joaquin Valley to either reduce floodflows or convey floodwaters away from urban areas.

(3) Link the flood protection system with the water supply system.

(4) Reduce flood risks in currently nonurbanized areas.

(5) Increase the engagement of local agencies willing to participate in improving flood protection, ensuring a better connection between state flood protection decisions and local land use decisions.

(6) Improve flood protection for urban areas to the urban level of flood protection.

(7) Promote natural dynamic hydrologic and geomorphic processes.

(8) Reduce damage from flooding.

(9) Increase and improve the quantity, diversity, and connectivity of riparian, wetland, flood plain, and shaded riverine aquatic habitats, including the agricultural and ecological values of these lands.

(10) Minimize the flood management system operation and maintenance requirements.

(11) Promote the recovery and stability of native species populations and overall biotic community diversity.

(12) Identify opportunities and incentives for expanding or increasing use of floodway corridors.

(13) Provide a feasible, comprehensive, and long-term financing plan for implementing the plan.

(14) Identify opportunities for reservoir reoperation in conjunction with groundwater flood storage.

(b) The plan shall include a prioritized list of recommended actions to reduce flood risks and meet the objectives described in subdivision (a).

Chapter 3. Plan Implementation

9620. Upon the adoption of the plan by the board, all of the following apply:

(a) The facilities identified pursuant to subdivision (a) of Section 9614 shall be deemed to be part of the system.

(b) The board shall act on the recommendations to remove facilities identified pursuant to subdivision (h) of Section 9614 from the State Plan of Flood Control.

(c) The department shall develop a recommended schedule and funding plan to implement the recommendations of the plan. To develop the recommended schedule and funding plan, the department may collaborate with local and federal agencies.

9621. Consistent with the adoption of the Central Valley Flood Protection Plan pursuant to this part, each county shall collaborate with cities within its jurisdiction to develop flood emergency plans within 24 months of the adoption of the plan.

9622. Consistent with the adoption of the Central Valley Flood Protection Plan pursuant to this part, each city, county, and city and county shall collaborate with the state and local flood management agencies to provide relocation assistance or other cost-effective strategies for reducing flood risk to existing economically disadvantaged communities located in nonurbanized areas.

9623. Consistent with the adoption of the Central Valley Flood Protection Plan pursuant to this part, each city, county, and city and county shall collaborate with the state and local flood management agencies to develop funding mechanisms to finance local flood protection responsibilities by January 1, 2010.

9624. Notwithstanding any other provision of law, this part applies to all cities, including charter cities, and counties included in the plan pursuant to Section 9614. The Legislature finds and declares that flood protection in the Sacramento-San Joaquin Valley is a matter of statewide concern and not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution.

9625. (a) By January 1, 2010, the department shall develop cost-sharing formulas, as needed, for funds made available by the Disaster Preparedness and Flood Prevention Bond Act of 2006 (Chapter 1.699 (commencing with Section 5096.800) of Division 5 of the Public Resources Code) and the Safe Drinking Water, Water Quality and Supply,

Flood Control, River and Coastal Protection Bond Act of 2006 (Division 43 (commencing with Section 75001) of the Public Resources Code) for repairs or improvements of facilities included in the plan to determine the local share of the cost of design and construction.

(b) The cost-share formulas developed by the department shall be established pursuant to Section 12585.7.

(c) In developing cost-share formulas, the department shall consider the ability of local governments to pay their share of the capital costs of the project.

(d) Prior to finalizing cost-share formulas, the department shall conduct public meetings to consider public comments. The department shall post the draft cost-share formula on its Internet Web site at least 30 days before the public meetings. To the extent feasible, the department shall provide outreach to disadvantaged communities to promote access and participation in the meetings.

SEC. 10. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

SEC. 11. This act shall become operative only if Assembly Bill 162 and Senate Bill 17 of the 2007–08 Regular Session of the Legislature are enacted and become operative.

CHAPTER 365

An act to amend Section 11564 of the Government Code, and to amend Sections 8521, 8550, 8551, 8552, 8554, 8575, and 8590 of, to amend the heading of Part 4 (commencing with Section 8520) of Division 5 of, to add Sections 8522.3, 8522.5, 8523, 8577, 8578, and 8610.5 to, to add Article 8 (commencing with Section 8725) to Chapter 3 of Part 4 of Division 5 of, and to repeal and add Article 2 (commencing with Section 8580) to Chapter 2 of Part 4 of Division 5 of, the Water Code, relating to water.

[Approved by Governor October 10, 2007. Filed with Secretary of State October 10, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 11564 of the Government Code is amended to read:

11564. (a) Effective January 1, 1988, an annual salary of twenty-five thousand one hundred eighteen dollars ($25,118) shall be paid to each member of the State Air Resources Board and the Central Valley Flood Protection Board, if each member devotes a minimum of 60 hours per month to board work. The salary shall be reduced proportionately if less than 60 hours per month is devoted to board work.

(b) The annual compensation provided by this section shall be increased in any fiscal year in which a general salary increase is provided for state employees. The amount of the increase provided by this section shall be comparable to, but shall not exceed, the percentage of the general salary increases provided for state employees during that fiscal year.

SEC. 2. The heading of Part 4 (commencing with Section 8520) of Division 5 of the Water Code is amended to read:

PART 4. THE CENTRAL VALLEY FLOOD PROTECTION BOARD

SEC. 3. Section 8521 of the Water Code is amended to read:

8521. "Board" means the Central Valley Flood Protection Board. Any reference to the Reclamation Board in this or any other code means the Central Valley Flood Protection Board.

SEC. 4. Section 8522.3 is added to the Water Code, to read:

8522.3. "Facilities of the State Plan of Flood Control" means the levees, weirs, channels, and other features of the State Plan of Flood Control.

SEC. 5. Section 8522.5 is added to the Water Code, to read:

8522.5. "Project levee" means any levee that is a part of the facilities of the State Plan of Flood Control.

SEC. 6. Section 8523 is added to the Water Code, to read:

8523. "State Plan of Flood Control" means the state and federal flood control works, lands, programs, plans, policies, conditions, and mode of maintenance and operations of the Sacramento River Flood Control Project described in Section 8350, and of flood control projects in the Sacramento River and San Joaquin River watersheds authorized pursuant to Article 2 (commencing with Section 12648) of Chapter 2 of Part 6 of Division 6 for which the board or the department has provided the assurances of nonfederal cooperation to the United States, and those facilities identified in Section 8361.

SEC. 7. Section 8550 of the Water Code is amended to read:

8550. (a) The board is continued in existence and shall continue to exercise and have all of its powers, duties, purposes, responsibilities, and jurisdiction.

(b) Notwithstanding any other provision of law, the board shall act independently of the department. The department shall not overturn any action or decision by the board.

(c) It is the intent of the Legislature to transfer the duties and corresponding funding allocated to the Reclamation Board as it exists on December 31, 2007, together with all necessary positions, to the board as it is reconstituted on and after January 1, 2008.

SEC. 8. Section 8551 of the Water Code is amended to read:

8551. (a) Except as provided in subdivision (g), the board consists of nine members who shall be appointed in accordance with this section.

(b) (1) Seven members of the board shall be appointed by the Governor, subject to Senate confirmation.

(2) Of the members appointed pursuant to paragraph (1), the following requirements apply:

(A) One person shall be an engineer.

(B) One person shall have training, experience, and expertise in geology or hydrology.

(C) One person shall be a flood control expert with not less than five years' experience.

(D) One person shall be an attorney with water experience.

(E) Three persons shall be public members.

(c) One member of the board shall be appointed by the Senate Committee on Rules.

(d) One member of the board shall be appointed by the Speaker of the Assembly.

(e) The members appointed pursuant to subdivisions (c) and (d) shall be public members.

(f) (1) Except as provided in paragraph (2), the board members appointed pursuant to subdivision (b), (c), or (d) shall serve four-year terms.

(2) The board members initially appointed pursuant to this section shall determine, by lot, that five members shall serve four-year terms and four members shall serve two-year terms.

(g) Each board member holding office on December 31, 2007, shall continue to serve until his or her successor is appointed and has been qualified to hold office. The order of replacement shall be determined by lot.

SEC. 9. Section 8552 of the Water Code is amended to read:

8552. (a) Each member of the board shall receive the necessary expenses incurred by the member in the performance of official duties.

(b) Any member of the board traveling outside the state pursuant to authorization of the board, and the approval of the Governor and Director

of Finance as provided by Section 11032 of the Government Code, while so engaged shall receive per diem and his or her necessary expenses.

(c) Each member of the board shall receive the salary provided for in Section 11564 of the Government Code.

SEC. 10. Section 8554 of the Water Code is amended to read:

8554. The Governor shall select one of the members of the board as president.

SEC. 11. Section 8575 of the Water Code is amended to read:

8575. A member of the board shall comply with the conflict-of-interest requirements of Section 87100 of the Government Code when voting to carry out any part of a plan of flood control and when carrying out the objects of this part.

SEC. 12. Section 8577 is added to the Water Code, to read:

8577. (a) A board member shall not participate in any board action or attempt to influence any decision or recommendation by any employee of, or consultant to, the board that involves himself or herself or that involves any entity with which the member is connected as a director, officer, consultant, or full- or part-time employee, or in which the member has a direct personal financial interest within the meaning of Section 87100 of the Government Code.

(b) A board member shall not participate in any proceeding before any agency as a consultant or in any other capacity on behalf of any person that actively participates in matters before the board.

(c) For a period of 12 months after leaving office, a former board member shall not act as agent or attorney for, or otherwise represent, any other person before the board by making any formal or informal appearance or by making any oral or written communication to the board.

(d) A board member shall not advocate to the United States Army Corps of Engineers or other federal agency on behalf of any project that has been or is reasonably anticipated to be submitted to the board for review, unless the board authorizes that action in accordance with Section 8560.

SEC. 13. Section 8578 is added to the Water Code, to read:

8578. (a) For the purposes of this section, "ex parte communication" means any oral or written communication concerning matters, other than purely procedural matters, under the board's jurisdiction that are subject to a vote.

(b) (1) A board member or any person, excluding a staff member of the board acting in his or her official capacity, who intends to influence the decision of a board member on a matter before the board, shall not conduct an ex parte communication.

(2) If an ex parte communication occurs, the board member shall notify the interested party that a full disclosure of the ex parte communication shall be entered in the board's record.

(3) Communications cease to be ex parte communications when the board member or the person who engaged in the communication with the board member fully discloses the communication and requests in writing that it be placed in the board's official record of the proceeding.

(c) Notwithstanding Section 11425.10 of the Government Code, the ex parte communications provisions of the Administrative Procedure Act (Article 7 (commencing with Section 11430.10) of Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code) do not apply to proceedings of the board to which this section applies.

SEC. 14. Article 2 (commencing with Section 8580) of Chapter 2 of Part 4 of Division 5 of the Water Code is repealed.

SEC. 15. Article 2 (commencing with Section 8580) is added to Chapter 2 of Part 4 of Division 5 of the Water Code, to read:

Article 2. Employees

8580. (a) The board may appoint an executive officer.

(b) The board may appoint a chief engineer.

(c) The board may employ legal counsel and other necessary staff.

SEC. 16. Section 8590 of the Water Code is amended to read:

8590. To carry out the primary state interest described in Section 8532, the board may do any of the following:

(a) Acquire either within or outside the boundaries of the drainage district, by purchase, condemnation or by other lawful means in the name of the drainage district, all lands, rights-of-way, easements, property or material necessary or requisite for the purpose of bypasses, weirs, cuts, canals, sumps, levees, overflow channels and basins, reservoirs and other flood control works, and other necessary purposes, including drainage purposes.

(b) Construct, clear, and maintain bypasses, levees, canals, sumps, overflow channels and basins, reservoirs and other flood control works.

(c) Construct, maintain, and operate ditches, canals, pumping plants, and other drainage works.

(d) Make contracts in the name of the drainage district to indemnify or compensate any owner of land or other property for any injury or damage caused by the exercise of the powers conferred by this division, or arising out of the use, taking, or damage of any property for any of the purposes of this division.

(e) Collaborate with state and federal agencies, if appropriate, regarding multiobjective flood management strategies that incorporate

agricultural conservation, ecosystem protection and restoration, or recreational components.

SEC. 17. Section 8610.5 is added to the Water Code, to read:

8610.5. (a) (1) The board shall adopt regulations relating to evidentiary hearings pursuant to Chapter 4.5 (commencing with Section 11400) of Part 1 of Division 3 of Title 2 of the Government Code.

(2) The board shall hold an evidentiary hearing for any matter that requires the issuance of a permit.

(3) The board is not required to hold an evidentiary hearing before making a decision relating to general flood protection policy or planning.

(b) The board may take an action pursuant to Section 8560 only after allowing for public comment.

(c) The board shall, in any evidentiary hearing, consider all of the following, as applicable, for the purpose of taking any action pursuant to Section 8560:

(1) Evidence that the board admits into its record from any party, state or local public agency, or nongovernmental organization with expertise in flood or floodplain management.

(2) The best available science that relates to the scientific issues presented by the executive officer, legal counsel, the department, or other parties that raise credible scientific issues.

(3) Effects of the proposed decision on the entire State Plan of Flood Control.

(4) Effects of reasonably projected future events, including but not limited to, changes in hydrology, climate, and development within the applicable watershed.

SEC. 18. Article 8 (commencing with Section 8725) is added to Chapter 3 of Part 4 of Division 5 of the Water Code, to read:

Article 8. State Plan of Flood Control

8725. (a) On or before December 31, 2009, the department shall prepare a preliminary report on the status of the State Plan of Flood Control and submit the preliminary report to the board for its adoption in accordance with this section.

(b) On or before December 31, 2008, the department shall provide a report to the Governor and Legislature on its progress toward meeting the requirements of subdivision (a).

(c) For the purposes of preparing the preliminary report, the department shall inspect the project levees. The preliminary report shall include all of the following:

(1) A description and the location of all facilities of the State Plan of Flood Control, including, but not limited to, levees, canals, weirs,

bypasses, and pumps. The description shall include the identification of the agency responsible for maintaining the facility.

(2) An evaluation of the performance and deficiencies of project levees and other facilities of the State Plan of Flood Control.

(3) A prioritized list of actions necessary to improve the performance of, and to the maximum extent practicable, to eliminate deficiencies of, project levees and other facilities of the State Plan of Flood Control, using the following criteria for establishing its priority list:

(A) The likelihood of failure by the levee or facility.

(B) The current population protected by the levee or facility.

(C) The public safety infrastructure protected by the levee or facility. For purposes of this subparagraph, "public safety infrastructure" means the street and highway evacuation routes, hospitals, and other public safety infrastructure necessary to respond to a flood emergency.

(4) An examination of both structural and nonstructural methods for improving the performance and eliminating deficiencies of project levees and other facilities of the State Plan of Flood Control, and, wherever feasible, a description of actions intended to meet multiple objectives, including each of the following:

(A) Reducing the risk to human life, health, and safety from flooding.

(B) Promoting natural dynamic hydrologic and geomorphic processes.

(C) Reducing damages from flooding.

(D) Increasing and improving the quantity, diversity, and connectivity of riparian, wetland, floodplain, and shaded riverine aquatic habitats, including agriculture and the ecological values of these lands.

(E) Minimizing the flood management system operation and maintenance requirements.

(F) Promoting the recovery and stability of native species populations and overall biotic community diversity.

(5) A description of the historical development of the State Plan of Flood Control.

(6) A description of the roles and responsibilities of federal, state, and local agencies.

(7) A description of all other relevant projects, programs, activities, and policies that are a material component of the State Plan of Flood Control.

(8) An examination to determine if the listing of facilities in Section 8361 is properly inclusive or if additions or deletions are appropriate, together with any revisions of roles and responsibilities.

(9) An examination to determine which additional existing flood control facilities, if any, should be added to the State Plan of Flood Control. In determining whether a facility should be added to the State

Plan of Flood Control, the department and the board shall consider the following:

(A) Whether the facility operates in coordination with other facilities of the State Plan of Flood Control.

(B) Whether the facility protects any contiguous area with more than 10,000 residents.

(C) Whether the facility protects public safety infrastructure as defined in subparagraph (C) of paragraph (3).

(d) On or before December 31, 2010, the board shall adopt and submit to the Governor and the Legislature a final report that includes any changes that it determines to be necessary based on the public comments received pursuant to subdivision (e).

(e) (1) The board shall conduct at least two public meetings to consider public comments prior to adopting the report. At least one meeting shall be conducted at a location in the Sacramento Valley and at least one meeting shall be conducted at a location in the San Joaquin Valley or the Sacramento-San Joaquin Delta as described in Section 12220.

(2) The board shall publish the department's preliminary report prepared pursuant to subdivision (a) on its Internet Web site at least 30 days before the date of the first public meeting required by paragraph (1).

(3) To the extent feasible, the board shall provide outreach to disadvantaged communities to promote access and participation in the meetings.

(f) The department shall assist the board in developing the necessary information that responds to public comments for inclusion in the final report.

(g) It is the intent of the Legislature that the report to the Governor and the Legislature on the status of the state flood control system become the basis for developing and implementing one or more natural communities conservation plans or joint natural communities conservation plan/habitat conservation plans for flood management projects.

8726. (a) On or before December 31, 2010, the board shall prepare and adopt a strategic flood protection plan, consistent with Section 8725. The board shall make relevant maps available to the public and shall post these maps on its Internet Web site.

(b) The board shall establish and update, at a minimum, every five years, standards for levee construction, operation, and maintenance.

(c) The board shall review and comment on local and regional land use plans regarding their compliance with flood protection and public safety standards adopted by the board.

(d) The board shall review flood control plans adopted by local public agencies regarding the adequacy of those plans to protect public safety. The board may recommend revisions to those plans to improve public safety protection.

(e) The board shall not allocate any funds to a local public agency for a flood control project unless the board determines that the project ensures adequate flood protection consistent with existing state and federal law.

8727. (a) (1) A local agency that is responsible for maintaining a unit or portion of the State Plan of Flood Control, at a public hearing of the local agency, upon approval of the board, may submit a petition to the board and the United States for decertification of the flood control facility as a part of the State Plan of Flood Control.

(2) Not less than 90 days before the proposed submittal of the petition, the local agency shall provide notice to the department, the board, any affected county, any affected city, and any affected levee district. The notice shall specify the reasons for the proposed decertification and the local agency's plan for the levee if the decertification is approved.

(3) The board may approve the submittal of the petition at a public hearing if the county board of supervisors of any county, and the city council of any city, that receives protection from the levee provides written approval for the submittal of the petition.

(b) The board may approve a petition for decertification submitted in accordance with subdivision (a) if it determines that other levees will not be adversely affected and that other elements of the State Plan of Flood Control will not be adversely affected, and that it is in the best interest of the state.

(c) The decertification shall be effective upon the approval of the decertification by the board and the United States.

CHAPTER 366

An act to amend Section 11564 of, and to repeal Section 13332.11.1 of, the Government Code, to repeal Section 5096.830 of the Public Resources Code, and to amend Sections 8521, 8550, 8551, 8552, 8554, 8575, 8590, 12878, 12878.1, 12878.21, and 12878.23 of, to amend the heading of Part 4 (commencing with Section 8520) of Division 5 of, to add Sections 8306, 8522.3, 8522.5, 8523, 8577, 8578, 8610.5, 8612, 8613, 9625, and 12585.12 to, to add Chapter 9 (commencing with Section 9110) to Part 4 of Division 5 of, to add Part 8 (commencing with Section 9650) to Division 5 of, to repeal Article 8 (commencing with Section 8725) of Chapter 3 of Part 4 of Division 5 of, and to repeal and add

Article 2 (commencing with Section 8580) Chapter 2 of Part 4 of Division 5 of, the Water Code, relating to flood management, and making an appropriation therefor.

[Approved by Governor October 10, 2007. Filed with Secretary of State October 10, 2007.]

The people of the State of California do enact as follows:

SECTION 1. The Legislature hereby finds and declares all of the following:

(a) The central valley of this state is experiencing unprecedented development, resulting in the conversion of historically agricultural lands and communities to densely populated residential and urban centers.

(b) The Legislature recognizes that by their nature, levees, which are earthen embankments typically founded on fluvial deposits, cannot offer complete protection from flooding, but can decrease its frequency.

(c) The Legislature recognizes that the level of flood protection afforded rural and agricultural lands by the original flood control system is not considered adequate to protect those lands when developed for urban uses, and that a dichotomous system of flood protection for urban and rural lands has developed through many years of practice.

(d) The Legislature further recognizes that levees built to reclaim and protect agricultural land may be inadequate to protect urban development unless those levees are significantly improved.

(e) Local agencies are primarily responsible for making land use decisions in the state, and the Legislature intends that they retain that lead role.

(f) Local agencies rely upon federal flood plain information when approving developments, but the information available is often out of date and the flood risk may be greater than that indicated using available federal information.

(g) Flood plain management tools such as flood plain mapping, the National Flood Insurance Program, and the designated floodway program, represent important supplemental activities to educate the public about, and protect the public from, flood hazards.

(h) It is necessary for the state to immediately undertake the task of mapping flood plains and submitting up-to-date information to the federal government so that the federal National Flood Insurance Program maps reflect current and accurate conditions. In this way, the public can be provided with reliable information regarding flooding potential, and local agencies can make informed land use and flood management decisions so that the risk to life and property can be effectively reduced.

SEC. 2. Section 11564 of the Government Code is amended to read:

11564. (a) Effective January 1, 1988, an annual salary of twenty-five thousand one hundred eighteen dollars ($25,118) shall be paid to each member of the State Air Resources Board and the Central Valley Flood Protection Board, if each member devotes a minimum of 60 hours per month to state board work. The salary shall be reduced proportionately if less than 60 hours per month is devoted to state board work.

(b) The annual compensation provided by this section shall be increased in any fiscal year in which a general salary increase is provided for state employees. The amount of the increase provided by this section shall be comparable to, but shall not exceed, the percentage of the general salary increases provided for state employees during that fiscal year.

(c) Notwithstanding subdivision (b), any salary increase is subject to Section 11565.5.

SEC. 3. Section 13332.11.1 of the Government Code, as added by Assembly Bill 156 of the 2007–08 Regular Session of the Legislature, is repealed.

SEC. 4. Section 5096.830 of the Public Resources Code, as added by Assembly Bill 156 of the 2007–08 Regular Session of the Legislature, is repealed.

SEC. 5. Section 8306 is added to the Water Code, to read:

8306. (a) Notwithstanding any other provision of law, the department may provide meals and other necessary support to any person, including, but not limited to, an employee of the department, who is engaged in emergency flood fight activities on behalf of, or in cooperation with, the department.

(b) For the purposes of this section, "emergency flood fight activities" mean actions taken under emergency conditions to maintain flood control features, the failure of which threaten to destroy life, property, or resources.

SEC. 6. The heading of Part 4 (commencing with Section 8520) of Division 5 of the Water Code is amended to read:

PART 4. THE CENTRAL VALLEY FLOOD PROTECTION BOARD

SEC. 7. Section 8521 of the Water Code is amended to read:

8521. "Board" means the Central Valley Flood Protection Board. Any reference to the Reclamation Board in this or any other code means the Central Valley Flood Protection Board.

SEC. 8. Section 8522.3 is added to the Water Code, to read:

8522.3. "Facilities of the State Plan of Flood Control" means the levees, weirs, channels, and other features of the State Plan of Flood Control.

SEC. 9. Section 8522.5 is added to the Water Code, to read:

8522.5. "Project levee" means any levee that is a part of the facilities of the State Plan of Flood Control.

SEC. 10. Section 8523 is added to the Water Code, to read:

8523. "State Plan of Flood Control" means the state and federal flood control works, lands, programs, plans, policies, conditions, and mode of maintenance and operations of the Sacramento River Flood Control Project described in Section 8350, and of flood control projects in the Sacramento River and San Joaquin River watersheds authorized pursuant to Article 2 (commencing with Section 12648) of Chapter 2 of Part 6 of Division 6 for which the board or the department has provided the assurances of nonfederal cooperation to the United States, and those facilities identified in Section 8361.

SEC. 11. Section 8550 of the Water Code is amended to read:

8550. (a) The board is continued in existence and shall continue to exercise and have all of its powers, duties, purposes, responsibilities, and jurisdiction.

(b) Notwithstanding any other provision of law, the board shall act independently of the department. The department shall not overturn any action or decision by the board.

(c) It is the intent of the Legislature to transfer the duties and corresponding funding allocated to the Reclamation Board as it exists on December 31, 2007, together with all necessary positions, to the board as it is reconstituted on and after January 1, 2008.

SEC. 12. Section 8551 of the Water Code is amended to read:

8551. (a) Except as provided in subdivision (g), the board consists of nine members who shall be appointed in accordance with this section.

(b) (1) Seven members of the board shall be appointed by the Governor, subject to Senate confirmation.

(2) Of the members appointed pursuant to paragraph (1), the following requirements apply:

(A) One person shall be an engineer.

(B) One person shall have training, experience, and expertise in geology or hydrology.

(C) One person shall be a flood control expert with not less than five years' experience.

(D) One person shall be an attorney with water experience.

(E) Three persons shall be public members.

(c) One member of the board shall be the Chair of the Senate Committee on Natural Resources and Water, to the extent that service with the board does not conflict with his or her legislative duties.

(d) One member of the board shall be the Chair of the Assembly Committee on Water, Parks and Wildlife, to the extent that service with the board does not conflict with his or her legislative duties.

(e) The members appointed pursuant to subdivisions (c) and (d) shall be nonvoting ex officio members.

(f) (1) Except as provided in paragraph (2), the board members appointed pursuant to subdivision (b) shall serve four-year terms.

(2) The board members initially appointed pursuant to this section shall determine, by lot, that five members shall serve four-year terms and four members shall serve two-year terms.

(g) Each board member holding office on December 31, 2007, shall continue to serve until his or her successor is appointed and has been qualified to hold office. The order of replacement shall be determined by lot.

SEC. 13. Section 8552 of the Water Code is amended to read:

8552. Each member of the board appointed pursuant to subdivision (b) of Section 8551 shall receive compensation as follows:

(a) Each member shall receive the necessary expenses incurred by the member in the performance of official duties.

(b) Any member traveling outside the state pursuant to authorization of the board, and the approval of the Governor and Director of Finance as provided by Section 11032 of the Government Code, while so engaged shall receive per diem and his or her necessary expenses.

(c) Each member shall receive the salary provided for in Section 11564 of the Government Code.

SEC. 14. Section 8554 of the Water Code is amended to read:

8554. The Governor shall select one of the members of the board as president.

SEC. 15. Section 8575 of the Water Code is amended to read:

8575. A member of the board shall comply with the conflict of interest requirements of Section 87100 of the Government Code when voting to carry out any part of a plan of flood control and when carrying out the objects of this part.

SEC. 16. Section 8577 is added to the Water Code, to read:

8577. (a) A board member shall not participate in any board action or attempt to influence any decision or recommendation by any employee of, or consultant to, the board that involves himself or herself or that involves any entity with which the member is connected as a director, officer, consultant, or full- or part-time employee, or in which the member has a direct personal financial interest within the meaning of Section 87100 of the Government Code.

(b) A board member shall not participate in any proceeding before any agency as a consultant or in any other capacity on behalf of any person that actively participates in matters before the board.

(c) For a period of 12 months after leaving office, a former board member shall not act as agent or attorney for, or otherwise represent, any other person before the board by making any formal or informal appearance or by making any oral or written communication to the board.

(d) A board member shall not advocate to the United States Army Corps of Engineers or other federal agency on behalf of any project that has been or is reasonably anticipated to be submitted to the board for review, unless the board authorizes that action in accordance with Section 8560.

SEC. 17. Section 8578 is added to the Water Code, to read:

8578. (a) For the purposes of this section, "ex parte communication" means any oral or written communication concerning matters, other than purely procedural matters, under the board's jurisdiction that are subject to a vote.

(b) (1) No board member nor any person or organization with an interest in board decisions, nor any person representing a person or organization with an interest in board decisions, excluding a staff member of the board acting in his or her official capacity, who intends to influence the decision of a board member on a matter before the board, shall conduct an ex parte communication.

(2) If an ex parte communication occurs, the board member shall notify the interested party that a full disclosure of the ex parte communication shall be entered in the board's record.

(3) Communications cease to be ex parte communications when the board member or the person who engaged in the communication with the board member fully discloses the communication and requests in writing that it be placed in the board's official record of the proceeding.

(c) Notwithstanding Section 11425.10 of the Government Code, the ex parte communications provisions of the Administrative Procedure Act (Article 7 (commencing with Section 11430.10) of Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code) do not apply to proceedings of the board to which this section applies.

SEC. 18. Article 2 (commencing with Section 8580) of Chapter 2 of Part 4 of Division 5 of the Water Code is repealed.

SEC. 19. Article 2 (commencing with Section 8580) is added to Chapter 2 of Part 4 of Division 5 of the Water Code, to read:

Article 2. Employees

8580. (a) The board may appoint an executive officer.

(b) The board may appoint a chief engineer.

(c) The board may employ legal counsel and other necessary staff.

SEC. 20. Section 8590 of the Water Code is amended to read:

8590. To carry out the primary state interest described in Section 8532, the board may do any of the following:

(a) Acquire either within or outside the boundaries of the drainage district, by purchase, condemnation or by other lawful means in the name of the drainage district, all lands, rights-of-way, easements, property or material necessary or requisite for the purpose of bypasses, weirs, cuts, canals, sumps, levees, overflow channels and basins, reservoirs and other flood control works, and other necessary purposes, including drainage purposes.

(b) Construct, clear, and maintain bypasses, levees, canals, sumps, overflow channels and basins, reservoirs and other flood control works.

(c) Construct, maintain, and operate ditches, canals, pumping plants, and other drainage works.

(d) Make contracts in the name of the drainage district to indemnify or compensate any owner of land or other property for any injury or damage caused by the exercise of the powers conferred by this division, or arising out of the use, taking, or damage of any property for any of the purposes of this division.

(e) Collaborate with state and federal agencies, if appropriate, regarding multiobjective flood management strategies that incorporate agricultural conservation, ecosystem protection and restoration, or recreational components.

SEC. 21. Section 8610.5 is added to the Water Code, to read:

8610.5. (a) (1) The board shall adopt regulations relating to evidentiary hearings pursuant to Chapter 4.5 (commencing with Section 11400) of Part 1 of Division 3 of Title 2 of the Government Code.

(2) The board shall hold an evidentiary hearing for any matter that requires the issuance of a permit.

(3) The board is not required to hold an evidentiary hearing before making a decision relating to general flood protection policy or planning.

(b) The board may take an action pursuant to Section 8560 only after allowing for public comment.

(c) The board shall, in any evidentiary hearing, consider all of the following, as applicable, for the purpose of taking any action pursuant to Section 8560:

(1) Evidence that the board admits into its record from any party, state or local public agency, or nongovernmental organization with expertise in flood or flood plain management.

(2) The best available science that relates to the scientific issues presented by the executive officer, legal counsel, the department, or other parties that raise credible scientific issues.

(3) Effects of the proposed decision on the entire State Plan of Flood Control.

(4) Effects of reasonably projected future events, including but not limited to, changes in hydrology, climate, and development within the applicable watershed.

SEC. 22. Section 8612 is added to the Water Code, to read:

8612. (a) On or before December 31, 2008, the department shall prepare, and the board shall adopt, a schedule for mapping areas at risk of flooding in the Sacramento River and San Joaquin River drainage.

(b) The department shall update the schedule annually and shall present the updated schedule to the board for adoption on or before December 31 of each year. The update shall include the status of mapping in progress and an estimated time of completion. The schedule shall be based on the present and expected future risk of flooding and associated consequences.

SEC. 23. Section 8613 is added to the Water Code, to read:

8613. (a) The board or the department may establish a program of mitigation banking for the activities of the board or the department under this part and for the benefit of local districts in the discharge of their flood control responsibilities under this part and the State Water Resources Law of 1945 (Chapter 1 (commencing with Section 12570) and Chapter 2 (commencing with Section 12639) of Part 6 of Division 6).

(b) For the purposes of carrying out subdivision (a), the board or the department, in consultation with all appropriate state, local, and federal agencies with jurisdiction over environmental protection that are authorized to regulate and impose requirements upon the flood control work performed under this part or the State Water Resources Law of 1945 (Chapter 1 (commencing with Section 12570) and Chapter 2 (commencing with Section 12639) of Part 6 of Division 6), may establish a system of mitigation banking by which mitigation credits may be acquired in advance for flood control work to be performed by the board, the department, or a local agency authorized to operate and maintain facilities of the State Plan of Flood Control.

SEC. 24. Article 8 (commencing with Section 8725) of Chapter 3 of Part 4 of Division 5 of the Water Code, as added by Senate Bill 17 of the 2007–08 Regular Session of the Legislature, is repealed.

SEC. 25. Chapter 9 (commencing with Section 9110) is added to Part 4 of Division 5 of the Water Code, to read:

Chapter 9. Reports

Article 1. Definitions

9110. Unless the context requires otherwise, the definitions set forth in this article govern the construction of this chapter.

(a) "Fiscal year" has the same meaning as that set forth in Section 13290 of the Government Code.

(b) "Levee flood protection zone" means the area, as determined by the board or the department, that is protected by a project levee.

(c) "Local agency" means a local agency responsible for the maintenance of a project levee.

(d) "Maintenance" has the same meaning as that set forth in subdivision (f) of Section 12878.

(e) "Project levee" means any levee that is part of the facilities of the State Plan of Flood Control.

(f) "State Plan of Flood Control" has the same meaning as that set forth in Section 5096.805 of the Public Resources Code.

Article 2. State Reports

9120. (a) The department shall prepare and the board shall adopt a flood control system status report for the State Plan of Flood Control. This status report shall be updated periodically, as determined by the board. For the purposes of preparing the report, the department shall inspect the project levees and review available information to ascertain whether there are evident deficiencies.

(b) The status report shall include identification and description of each facility, an estimate of the risk of levee failure, a discussion of the inspection and review undertaken pursuant to subdivision (a), and appropriate recommendations regarding the levees and future work activities.

(c) On or before December 31, 2008, the board shall advise the Legislature, in writing, as to the board's schedule of implementation of this section.

9121. (a) On or before September 1, 2010, and on or before September 1 of each year thereafter, the department shall provide written notice to each landowner whose property is determined to be entirely or partially within a levee flood protection zone.

(b) The notice shall include statements regarding all of the following:

(1) The property is located behind a levee.

(2) Levees reduce, but do not eliminate, the risk of flooding and are subject to catastrophic failure.

(3) If available, the level of flood risk as described in the flood control system status report described in Section 9120 and a levee flood protection zone map prepared in accordance with Section 9130.

(4) The state recommends that property owners in a levee flood protection zone obtain flood insurance, such as insurance provided by the Federal Emergency Management Agency through the National Flood Insurance Program.

(5) Information about purchasing federal flood insurance.

(6) The Internet address of the Web site that contains the information required by the flood management report described in Section 9141.

(7) Any other information determined by the department to be relevant.

(c) A county, with assistance from the department, shall annually provide to the department, by electronic means, lists of names and addresses of property owners in a levee flood protection zone located in that county.

(d) Notwithstanding any other provision of the law, the department may enter into contracts with private companies to provide the notices required by this section.

9122. The board shall determine the areas benefited by facilities of the State Plan of Flood Control based on information developed by the department.

Article 3. Levee Flood Protection Zone Maps

9130. (a) The department shall prepare and maintain maps for levee flood protection zones. The department shall prepare the maps by December 31, 2008, and shall include in the maps a designation of those lands where flood levels would be more than three feet deep if a project levee were to fail, using the best available information. The maps shall include other flood depth contours if that information is available.

(b) The department shall distribute the levee flood protection zone maps to appropriate governmental agencies, as determined by the department.

(c) The department shall make the maps readily available to the public. The department may charge a fee for the cost of reproducing the maps. To the extent feasible, maps shall be made available on the Internet Web site of the department.

(d) The department may periodically revise the maps to include updated information when that information becomes available.

Article 4. Local Reports

9140. (a) On or before September 30 of each year, a local agency responsible for the operation and maintenance of a project levee shall prepare and submit to the department, in a format specified by the department, a report of information for inclusion in periodic flood management reports prepared by the department relating to the project levee. The information submitted to the department shall include all of the following:

(1) Information known to the local agency that is relevant to the condition or performance of the project levee.

(2) Information identifying known conditions that might impair or compromise the level of flood protection provided by the project levee.

(3) A summary of the maintenance performed by the local agency during the previous fiscal year.

(4) A statement of work and estimated cost for operation and maintenance of the project levee for the current fiscal year, as approved by the local agency.

(5) Any other readily available information contained in the records of the local agency relevant to the condition or performance of the project levee, as determined by the board or the department.

(b) A local agency described in subdivision (a) that operates and maintains a nonproject levee that also benefits land within the boundaries of the area benefited by the project levee shall include information pursuant to subdivision (a) with regard to the nonproject levee.

(c) A local agency that incurs costs for the maintenance or improvement of a project or nonproject levee under the delta levee maintenance subventions program established pursuant to Part 9 (commencing with Section 12980) of Division 6 may submit information submitted to satisfy the requirements of that program to meet the requirements of paragraph (3) of subdivision (a), but may do so only for that reach of the levee included in that program.

(d) (1) A local agency responsible for the operation and maintenance of a levee not otherwise subject to this section may voluntarily prepare and submit to the department or the board a flood management report for posting on the Internet Web site of the department or the board.

(2) A flood management report submitted pursuant to paragraph (1) shall be made available on the Internet Web site of the board if the local agency is partially or wholly within the geographical boundaries of the board's jurisdiction. Otherwise, the report shall be made available on the Internet Web site of the department.

9141. (a) The department shall prepare and transmit to the board a report on the project levees operated and maintained by each local

agency, using information provided by the local agency pursuant to Section 9140 and information from relevant portions of any of the following documents, as determined by the department:

(1) Annual inspection reports on local agency maintenance prepared by the department or the board.

(2) The State Plan of Flood Control.

(3) The flood control system status report described in Section 9120.

(4) The schedule for mapping described in Section 8612.

(5) Any correspondence, document, or information deemed relevant by the department.

(b) The department shall make the flood management report for each local agency available on the Internet Web site of the board and shall provide the report to all of the following entities:

(1) The local agency.

(2) Any city or county within the local agency's jurisdiction.

(3) Any public library located within the local agency's jurisdiction.

(c) The report shall be completed on or before December 31, 2008, and shall be updated annually.

9142. A local agency responsible for the operation and maintenance of a project levee may propose to the board an upgrade of the project levee if the local agency determines that the upgrade is appropriate. The local agency may implement that upgrade if approved by the board.

SEC. 26. Section 9625 is added to the Water Code, to read:

9625. (a) By January 1, 2010, the department shall develop cost-sharing formulas, as needed, for funds made available by the Disaster Preparedness and Flood Prevention Bond Act of 2006 (Chapter 1.699 (commencing with Section 5096.800) of Division 5 of the Public Resources Code) and the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006 (Division 43 (commencing with Section 75001) of the Public Resources Code) for repairs or improvements of facilities included in the plan to determine the local share of the cost of design and construction.

(b) For qualifying projects pursuant to subdivision (a), the state's share of the nonfederal share shall be set at a minimum level of 50 percent.

(c) In developing cost-share formulas, the department shall consider the ability of local governments to pay their share of the capital costs of the project.

(d) Prior to finalizing cost-share formulas, the department shall conduct public meetings to consider public comments. The department shall post the draft cost-share formula on its Internet Web site at least 30 days before the public meetings. To the extent feasible, the department

shall provide outreach to disadvantaged communities to promote access and participation in the meetings.

SEC. 27. Part 8 (commencing with Section 9650) is added to Division 5 of the Water Code, to read:

PART 8. PROJECT LEVEE UPGRADES

9650. (a) (1) Commencing July 1, 2008, the allocation or expenditure of funds by the state for the upgrade of a project levee, if that upgrade is authorized on or after July 1, 2008, that protects an area in which more than 1,000 people reside shall be subject to a requirement that the local agency responsible for the operation and maintenance of the project levee and any city or county protected by the project levee, including a charter city or charter county, enter into an agreement to adopt a safety plan within two years. If a city or county is responsible for the operation and maintenance of the project levee, the governing body shall approve a resolution committing to the preparation of a safety plan within two years.

(2) The local entity responsible for the operation and maintenance of the project levee shall submit a copy of the safety plan to the department and the Reclamation Board.

(b) The safety plan, at a minimum, shall include all of the following elements:

(1) A flood preparedness plan that includes storage of materials that can be used to reinforce or protect a levee when a risk of failure exists.

(2) A levee patrol plan for high water situations.

(3) A flood-fight plan for the period before state or federal agencies assume control over the flood fight.

(4) An evacuation plan that includes a system for adequately warning the general public in the event of a levee failure, and a plan for the evacuation of every affected school, residential care facility for the elderly, and long-term health care facility.

(5) A floodwater removal plan.

(6) A requirement, to the extent reasonable, that either of the following applies to a new building in which the inhabitants are expected to be essential service providers:

(A) The building is located outside an area that may be flooded.

(B) The building is designed to be operable shortly after the floodwater is removed.

(c) The safety plan shall be integrated into any other local agency emergency plan and shall be coordinated with the state emergency plan.

(d) This section does not require the adoption of an element of the safety plan that was adopted previously and remains in effect.

9651. Unless the context requires otherwise, the definitions set forth in this section govern the construction of this part.

(a) "Emergency plan" and "state emergency plan" have the meanings set forth in subdivisions (a) and (b), respectively, of Section 8560 of the Government Code.

(b) "Essential service providers" includes, but is not limited to, hospitals, fire stations, police stations, and jails.

(c) "Long-term health care facility" has the same meaning as defined in Section 1418 of the Health and Safety Code.

(d) "Project levee" means any levee that is part of the facilities of the State Plan of Flood Control.

(e) "Residential care facility for the elderly" has the same meaning as defined in Section 1569.2 of the Health and Safety Code.

(f) "School" means a public or private preschool, elementary school, or secondary school or institution.

(g) "State Plan of Flood Control" means the state and federal flood control works, lands, programs, plans, policies, conditions, and mode of maintenance and operations of the Sacramento River Flood Control Project described in Section 8350, and of flood control projects in the Sacramento River and San Joaquin River watersheds authorized pursuant to Article 2 (commencing with Section 12648) of Chapter 2 of Part 6 of Division 6 for which the board or the department has provided the assurances of nonfederal cooperation to the United States, and those facilities identified in Section 8361.

(h) (1) "Upgrade of a project levee" means installing a levee underseepage control system, increasing the height or bulk of a levee, installing a slurry wall or sheet pile into the levee, rebuilding a levee because of internal geotechnical flaws, or adding a stability berm.

(2) Notwithstanding paragraph (1), an upgrade of a project levee does not include any action undertaken on an emergency basis.

SEC. 28. Section 12585.12 is added to the Water Code, to read:

12585.12. The department and the board may participate with the federal government or local agencies in the design of environmental enhancements associated with a federal flood control project, and may participate in the construction of environmental enhancements associated with a federal flood control project for which the state has authorized state participation.

SEC. 29. Section 12878 of the Water Code is amended to read:

12878. Unless the context otherwise requires, the following definitions apply throughout this chapter:

(a) "Department" means Department of Water Resources.

(b) "Director" means the Director of Water Resources.

(c) "Board" means the State Reclamation Board.

(d) Wherever the words "board or department" or "board or director" are used together in this chapter they shall mean board as to any project in the Sacramento or San Joaquin Valleys or on or near the Sacramento River or the San Joaquin River or any of their tributaries, and department or director as to any project in any other part of the state outside of the jurisdiction of the board.

(e) "Project" means any project that has been authorized pursuant to Chapter 2 (commencing with Section 12639) or Chapter 4 (commencing with Section 12850) and concerning which assurances have been given to the Secretary of the Army or the Secretary of Agriculture that the state or a political subdivision thereof will operate and maintain the project works in accordance with regulations prescribed by the federal government or any project upon which assurances have been given to the Secretary of the Army and upon which the Corps of Engineers, United States Army, has performed work pursuant to Section 208 of Public Law 780, 83rd Congress, 2nd Session, approved September 3, 1954.

(f) "Maintenance" means work described as maintenance by the federal regulations issued by the Secretary of the Army, the Secretary of Agriculture, the department, or the board for any project.

(g) "Maintenance area" means described or delineated lands that are found by the board or department to be benefited by the maintenance and operation of a particular unit of a project.

(h) "Unit" means any portion of the works of a project designated as a unit by the board or department, other than the works prescribed in Section 8361, or works operated and maintained by the United States.

(i) "Land" includes improvements.

(j) "Local agency" means and includes all districts or other public agencies responsible for the operation of works of any project under Section 8370, Chapter 2 (commencing with Section 12639) or Chapter 4 (commencing with Section 12850) or any other law of this state.

(k) "Cost of operation and maintenance" means, for the purposes of maintenance areas established after July 31, 2004, as the result of relinquishment by a local agency pursuant to Section 12878.1 only, the cost of all maintenance, as defined in subdivision (f), and shall also include, but is not limited to, all of the following costs:

(1) All costs incurred by the department or the board in the formation of the maintenance area under this chapter.

(2) Any costs, if deemed appropriate by the department, to secure insurance covering liability to others for damages arising from the maintenance activities of the department or from flooding in the maintenance area.

(3) Any costs of defending any action brought against the state, the department, or the board, or any employees of these entities, for damages

arising from the maintenance activities of the department or from flooding in the maintenance area.

(4) Any costs incurred in the payment of any judgment or settlement of an action against the state, the department, or the board, or any employees of these entities, for damages arising from the formation of the maintenance area or from any maintenance activities of the department or flooding in the maintenance area.

SEC. 30. Section 12878.1 of the Water Code is amended to read:

12878.1. (a) If the department determines that a unit of a project is not being operated or maintained in accordance with the standards established by federal regulations , if the department determines that the modification of a unit of a project that has been permitted by the board and that provides flood protection is not being operated or maintained in accordance with the requirements established by the board or the department, or if the governing body of a local agency obligated to operate and maintain that unit by resolution duly adopted and filed with the department declares that it no longer desires to operate and maintain the project unit, the department shall prepare a statement to that effect specifying in detail the particular items of work necessary to be done in order to comply with the standards of the federal government and the requirements of the board or the department together with an estimate of the cost thereof for the current fiscal year and for the immediately ensuing fiscal year.

(b) Subject to subdivision (c), but notwithstanding any other provision of law, the board or the department is not required to proceed in accordance with subdivision (a) or with the formation of a maintenance area under this chapter if neither the board nor the department has given the nonfederal assurances to the United States required for the project. If neither the board nor the department has given the nonfederal assurances to the United States required for the project, the board or department may elect to proceed with the formation if it determines that the formation of a maintenance area is in the best interest of the state.

(c) If a local agency requests the department to form a maintenance area by resolution duly adopted and filed with the department, the department shall estimate the cost of preparing the statement of necessary work and the cost thereof, and all other applicable costs incurred by the department before the formation of the maintenance area. The department shall submit that estimate to the local agency. The department is not required to perform any additional work to form that maintenance area until the local agency pays the department the amount estimated pursuant to this subdivision.

SEC. 31. Section 12878.21 of the Water Code is amended to read:

12878.21. Upon the formation of a maintenance area, the department shall thereafter operate and maintain the unit until such time as the maintenance area may be dissolved pursuant to this chapter. If the board or the department forms a maintenance area for a portion of a unit of a project, any remaining portion of the unit of a project not included in the maintenance area shall remain the responsibility of the local agency obligated to operate and maintain that unit.

SEC. 32. Section 12878.23 of the Water Code is amended to read:

12878.23. (a) The board or the department may modify the boundaries of any established maintenance area or zones within the maintenance area, the description of works to be maintained within the maintenance area, and the determination of relative benefits within any zone, upon its own initiative or upon petition by the governing body of the local agency formerly responsible for the operation and maintenance of the unit or by the board of supervisors of the county in which all or a portion of the unit is located.

(b) The board or the department may consolidate maintenance areas that share a common boundary.

SEC. 33. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

However, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

SEC. 34. Section 3 of this bill shall only become operative if AB 156 and this bill are enacted and become operative, AB 156 adds Section 13332.11.1 to the Government Code, and this bill is enacted last.

SEC. 35. Section 4 of this bill shall only become operative if AB 156 and this bill are enacted and become operative, AB 156 adds Section 5096.830 to the Public Resources Code, and this bill is enacted last.

SEC. 36. Section 24 of this bill shall only become operative if SB 17 and this bill are enacted and become operative, SB 17 adds Article 8 (commencing with Section 8725) to Chapter 3 of Part 4 of Division 5 of the Water Code, and this bill is enacted last.

CHAPTER 367

An act to add Section 8307 to the Water Code, relating to flood liability.

[Approved by Governor October 10, 2007. Filed with Secretary of State October 10, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 8307 is added to the Water Code, to read:

8307. (a) A city or county may be required to contribute its fair and reasonable share of the property damage caused by a flood to the extent that the city or county has increased the state's exposure to liability for property damage by unreasonably approving new development in a previously undeveloped area that is protected by a state flood control project. However, a city or county shall not be required to contribute if, after the amendments required by Sections 65302.9 and 65860.1 of the Government Code have become effective, the city or county complies with Sections 65865.5, 65962, and 66474.5 of the Government Code as applicable with respect to that development. This section shall not be construed to extend or toll the statute of limitations for challenging the approval of any new development.

(b) A city or county is not required to contribute unless an action has been filed against the state asserting liability for property damage caused by a flood and the provisions of subdivision (a) providing for contribution have been satisfied. A city or county is not required to contribute if the state settles the claims against it without providing the city or county with an opportunity to participate in settlement negotiations.

(c) For the purposes of this section:

(1) "State flood control project" means any flood control works within the Sacramento River Flood Control Project described in Section 8350, and of flood control projects in the Sacramento River and San Joaquin River watersheds authorized pursuant to Article 2 (commencing with Section 12648) of Chapter 2 of Part 6 of Division 6.

(2) "Undeveloped area" means an area devoted to "agricultural use," as defined in Section 51201 of the Government Code, or "open space land," as defined in Section 65560 of the Government Code, that, as of January 1, 2008, is not already designated for development in a general or specific plan or by a local zoning ordinance.

(3) "Unreasonably approving" means approving a new development project without appropriately considering significant risks of flooding made known to the approving agency as of the time of approval and

without taking reasonable and feasible action to mitigate the potential property damage to the new development resulting from a flood.

(4) "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors.

(d) This section shall not apply to any land or projects for which an application for development has been submitted to the city or county prior to January 1, 2008.

SEC. 2. Section 1 of this act shall become operative only if Senate Bill 5 of the 2007–08 Regular Session of the Legislature is enacted and becomes effective on or before January 1, 2008.

CHAPTER 368

An act to add Section 13332.11.1 to the Government Code, to add Section 5096.830 to the Public Resources Code, and to amend Sections 12878, 12878.1, 12878.21, and 12878.23 of, to add Sections 8306, 8612, 8613, and 12585.12 to, and to add Chapter 9 (commencing with Section 9110) to Part 4 of, and to add Part 8 (commencing with Section 9650) to, Division 5 of, the Water Code, relating to flood control, and making an appropriation therefor.

[Approved by Governor October 10, 2007. Filed with Secretary of State October 10, 2007.]

The people of the State of California do enact as follows:

SECTION 1. The Legislature hereby finds and declares all of the following:

(a) The central valley of this state is experiencing unprecedented development, resulting in the conversion of historically agricultural lands and communities to densely populated residential and urban centers.

(b) The Legislature recognizes that by their nature, levees, which are earthen embankments typically founded on fluvial deposits, cannot offer complete protection from flooding, but can decrease its frequency.

(c) The Legislature recognizes that the level of flood protection afforded rural and agricultural lands by the original flood control system is not considered adequate to protect those lands when developed for urban uses, and that a dichotomous system of flood protection for urban and rural lands has developed through many years of practice.

(d) The Legislature further recognizes that levees built to reclaim and protect agricultural land may be inadequate to protect urban development unless those levees are significantly improved.

(e) Local agencies are primarily responsible for making land use decisions in the state, and the Legislature intends that they retain that lead role.

(f) Local agencies rely upon federal flood plain information when approving developments, but the information available is often out-of-date and the flood risk may be greater than that indicated using available federal information.

(g) Flood plain management tools such as flood plain mapping, the National Flood Insurance Program, and the designated floodway program, represent important supplemental activities to educate the public about, and protect the public from, flood hazards.

(h) It is necessary for the state to immediately undertake the task of mapping flood plains and submitting up-to-date information to the federal government so that the federal National Flood Insurance Program maps reflect current and accurate conditions. In this way, the public can be provided with reliable information regarding flooding potential, and local agencies can make informed land use and flood management decisions so that the risk to life and property can be effectively reduced.

SEC. 2. Section 13332.11.1 is added to the Government Code, to read:

13332.11.1. Notwithstanding Section 13332.11, the expenditure by the Department of Water Resources of funds appropriated pursuant to Section 5096.821 or 75032 of the Public Resources Code is not subject to the approval of the State Public Works Board if either of the following applies to the expenditure:

(a) The department is performing work pursuant to an emergency.

(b) The department does all of the following:

(1) Obtains engineering review of the proposed project from the United States Army Corps of Engineers.

(2) Obtains engineering review of the proposed project from an independent board of consultants for any project with a construction cost exceeding five million dollars ($5,000,000).

(3) Provides a written report to the Reclamation Board.

(4) Provides information on the project expenditure to the Legislature in a semiannual report due on April 1 and October 1 each year.

(5) Provides written notification to the Legislature if funds are made available by Section 75032 of the Public Resources Code to pay a project cost increase for which the Legislature has not otherwise been notified in writing.

SEC. 3. Section 5096.830 is added to the Public Resources Code, to read:

5096.830. The development or adoption of program guidelines and selection criteria for the purposes of this chapter is not subject to the review or approval of the Office of Administrative Law or to any other requirement of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 4. Section 8306 is added to the Water Code, to read:

8306. (a) Notwithstanding any other provision of law, the department may provide meals and other necessary support to any person, including, but not limited to, an employee of the department, who is engaged in emergency flood fight activities on behalf of, or in cooperation with, the department.

(b) For the purposes of this section, "emergency flood fight activities" mean actions taken under emergency conditions to maintain flood control features, the failure of which threaten to destroy life, property, or resources.

SEC. 5. Section 8612 is added to the Water Code, to read:

8612. (a) On or before December 31, 2008, the department shall prepare, and the board shall adopt, a schedule for mapping areas at risk of flooding in the Sacramento River and San Joaquin River drainage.

(b) The department shall update the schedule annually and shall present the updated schedule to the board for adoption on or before December 31 of each year. The update shall include the status of mapping in progress and an estimated time of completion. The schedule shall be based on the present and expected future risk of flooding and associated consequences.

SEC. 6. Section 8613 is added to the Water Code, to read:

8613. (a) The board or the department may establish a program of mitigation banking for the activities of the board or the department under this part and for the benefit of local districts in the discharge of their flood control responsibilities under this part and the State Water Resources Law of 1945 (Chapter 1 (commencing with Section 12570) and Chapter 2 (commencing with Section 12639) of Part 6 of Division 6).

(b) For the purposes of carrying out subdivision (a), the board or the department, in consultation with all appropriate state, local, and federal agencies with jurisdiction over environmental protection that are authorized to regulate and impose requirements upon the flood control work performed under this part or the State Water Resources Law of 1945 (Chapter 1 (commencing with Section 12570) and Chapter 2 (commencing with Section 12639) of Part 6 of Division 6), may establish a system of mitigation banking by which mitigation credits may be

acquired in advance for flood control work to be performed by the board, the department, or a local agency authorized to operate and maintain facilities of the State Plan of Flood Control.

SEC. 7. Chapter 9 (commencing with Section 9110) is added to Part 4 of Division 5 of the Water Code, to read:

CHAPTER 9. REPORTS

Article 1. Definitions

9110. Unless the context requires otherwise, the definitions set forth in this article govern the construction of this chapter.

(a) "Fiscal year" has the same meaning as that set forth in Section 13290 of the Government Code.

(b) "Levee flood protection zone" means the area, as determined by the board or the department, that is protected by a project levee.

(c) "Local agency" means a local agency responsible for the maintenance of a project levee.

(d) "Maintenance" has the same meaning as that set forth in subdivision (f) of Section 12878.

(e) "Project levee" means any levee that is part of the facilities of the State Plan of Flood Control.

(f) "State Plan of Flood Control" means the state and federal flood control works, lands, programs, plans, policies, conditions, and mode of maintenance and operations of the Sacramento River Flood Control Project described in Section 8350, and of flood control projects in the Sacramento River and San Joaquin River watersheds authorized pursuant to Article 2 (commencing with Section 12648) of Chapter 2 of Part 6 of Division 6 for which the board or the department has provided the assurances of nonfederal cooperation to the United States, and those facilities identified in Section 8361.

Article 2. State Reports

9120. (a) The department shall prepare and the board shall adopt a flood control system status report for the State Plan of Flood Control. This status report shall be updated periodically, as determined by the board. For the purposes of preparing the report, the department shall inspect the project levees and review available information to ascertain whether there are evident deficiencies.

(b) The status report shall include identification and description of each facility, an estimate of the risk of levee failure, a discussion of the inspection and review undertaken pursuant to subdivision (a), and

appropriate recommendations regarding the levees and future work activities.

(c) On or before December 31, 2008, the board shall advise the Legislature, in writing, as to the board's schedule of implementation of this section.

9121. (a) On or before September 1, 2010, and on or before September 1 of each year thereafter, the department shall provide written notice to each landowner whose property is determined to be entirely or partially within a levee flood protection zone.

(b) The notice shall include statements regarding all of the following:

(1) The property is located behind a levee.

(2) Levees reduce, but do not eliminate, the risk of flooding and are subject to catastrophic failure.

(3) If available, the level of flood risk as described in the flood control system status report described in Section 9120 and a levee flood protection zone map prepared in accordance with Section 9130.

(4) The state recommends that property owners in a levee flood protection zone obtain flood insurance, such as insurance provided by the Federal Emergency Management Agency through the National Flood Insurance Program.

(5) Information about purchasing federal flood insurance.

(6) The Internet address of the Web site that contains the information required by the flood management report described in Section 9141.

(7) Any other information determined by the department to be relevant.

(c) A county, with assistance from the department, shall annually provide to the department, by electronic means, lists of names and addresses of property owners in a levee flood protection zone located in that county.

(d) Notwithstanding any other provision of the law, the department may enter into contracts with private companies to provide the notices required by this section.

9122. The board shall determine the areas benefited by facilities of the State Plan of Flood Control based on information developed by the department.

Article 3. Levee Flood Protection Zone Maps

9130. (a) The department shall prepare and maintain maps for levee flood protection zones. The department shall prepare the maps by December 31, 2008, and shall include in the maps a designation of those lands where flood levels would be more than three feet deep if a project

levee were to fail, using the best available information. The maps shall include other flood depth contours if that information is available.

(b) The department shall distribute the levee flood protection zone maps to appropriate governmental agencies, as determined by the department.

(c) The department shall make the maps readily available to the public. The department may charge a fee for the cost of reproducing the maps. To the extent feasible, maps shall be made available on the Internet Web site of the department.

(d) The department may periodically revise the maps to include updated information when that information becomes available.

Article 4. Local Reports

9140. (a) On or before September 30 of each year, a local agency responsible for the operation and maintenance of a project levee shall prepare and submit to the department, in a format specified by the department, a report of information for inclusion in periodic flood management reports prepared by the department relating to the project levee. The information submitted to the department shall include all of the following:

(1) Information known to the local agency that is relevant to the condition or performance of the project levee.

(2) Information identifying known conditions that might impair or compromise the level of flood protection provided by the project levee.

(3) A summary of the maintenance performed by the local agency during the previous fiscal year.

(4) A statement of work and estimated cost for operation and maintenance of the project levee for the current fiscal year, as approved by the local agency.

(5) Any other readily available information contained in the records of the local agency relevant to the condition or performance of the project levee, as determined by the board or the department.

(b) A local agency described in subdivision (a) that operates and maintains a nonproject levee that also benefits land within the boundaries of the area benefited by the project levee shall include information pursuant to subdivision (a) with regard to the nonproject levee.

(c) A local agency that incurs costs for the maintenance or improvement of a project or nonproject levee under the delta levee maintenance subventions program established pursuant to Part 9 (commencing with Section 12980) of Division 6 may submit information submitted to satisfy the requirements of that program to meet the

requirements of paragraph (3) of subdivision (a), but may do so only for that reach of the levee included in that program.

(d) (1) A local agency responsible for the operation and maintenance of a levee not otherwise subject to this section may voluntarily prepare and submit to the department or the board a flood management report for posting on the Internet Web site of the department or the board.

(2) A flood management report submitted pursuant to paragraph (1) shall be made available on the Internet Web site of the board if the local agency is partially or wholly within the geographical boundaries of the board's jurisdiction. Otherwise, the report shall be made available on the Internet Web site of the department.

9141. (a) The department shall prepare and transmit to the board a report on the project levees operated and maintained by each local agency, using information provided by the local agency pursuant to Section 9140 and information from relevant portions of any of the following documents, as determined by the department:

(1) Annual inspection reports on local agency maintenance prepared by the department or the board.

(2) The State Plan of Flood Control.

(3) The flood control system status report described in Section 9120.

(4) The schedule for mapping described in Section 8612.

(5) Any correspondence, document, or information deemed relevant by the department.

(b) The department shall make the flood management report for each local agency available on the Internet Web site of the board and shall provide the report to all of the following entities:

(1) The local agency.

(2) Any city or county within the local agency's jurisdiction.

(3) Any public library located within the local agency's jurisdiction.

(c) The report shall be completed on or before December 31, 2008, and shall be updated annually.

9142. A local agency responsible for the operation and maintenance of a project levee may propose to the board an upgrade of the project levee if the local agency determines that the upgrade is appropriate. The local agency may implement that upgrade if approved by the board.

SEC. 8. Part 8 (commencing with Section 9650) is added to Division 5 of the Water Code, to read:

PART 8. PROJECT LEVEE UPGRADES

9650. (a) (1) Commencing July 1, 2008, the allocation or expenditure of funds by the state for the upgrade of a project levee, if that upgrade is authorized on or after July 1, 2008, that protects an area

in which more than 1,000 people reside shall be subject to a requirement that the local agency responsible for the operation and maintenance of the project levee and any city or county protected by the project levee, including a charter city or charter county, enter into an agreement to adopt a safety plan within two years. If a city or county is responsible for the operation and maintenance of the project levee, the governing body shall approve a resolution committing to the preparation of a safety plan within two years.

(2) The local entity responsible for the operation and maintenance of the project levee shall submit a copy of the safety plan to the department and the Reclamation Board.

(b) The safety plan, at a minimum, shall include all of the following elements:

(1) A flood preparedness plan that includes storage of materials that can be used to reinforce or protect a levee when a risk of failure exists.

(2) A levee patrol plan for high water situations.

(3) A flood-fight plan for the period before state or federal agencies assume control over the flood fight.

(4) An evacuation plan that includes a system for adequately warning the general public in the event of a levee failure, and a plan for the evacuation of every affected school, residential care facility for the elderly, and long-term health care facility.

(5) A floodwater removal plan.

(6) A requirement, to the extent reasonable, that either of the following applies to a new building in which the inhabitants are expected to be essential service providers:

(A) The building is located outside an area that may be flooded.

(B) The building is designed to be operable shortly after the floodwater is removed.

(c) The safety plan shall be integrated into any other local agency emergency plan and shall be coordinated with the state emergency plan.

(d) This section does not require the adoption of an element of the safety plan that was adopted previously and remains in effect.

9651. Unless the context requires otherwise, the definitions set forth in this section govern the construction of this part.

(a) "Emergency plan" and "state emergency plan" have the meanings set forth in subdivisions (a) and (b), respectively, of Section 8560 of the Government Code.

(b) "Essential service providers" includes, but is not limited to, hospitals, fire stations, police stations, and jails.

(c) "Long-term health care facility" has the same meaning as defined in Section 1418 of the Health and Safety Code.

(d) "Project levee" means any levee that is part of the facilities of the State Plan of Flood Control.

(e) "Residential care facility for the elderly" has the same meaning as defined in Section 1569.2 of the Health and Safety Code.

(f) "School" means a public or private preschool, elementary school, or secondary school or institution.

(g) "State Plan of Flood Control" means the state and federal flood control works, lands, programs, plans, policies, conditions, and mode of maintenance and operations of the Sacramento River Flood Control Project described in Section 8350, and of flood control projects in the Sacramento River and San Joaquin River watersheds authorized pursuant to Article 2 (commencing with Section 12648) of Chapter 2 of Part 6 of Division 6 for which the board or the department has provided the assurances of nonfederal cooperation to the United States, and those facilities identified in Section 8361.

(h) (1) "Upgrade of a project levee" means installing a levee underseepage control system, increasing the height or bulk of a levee, installing a slurry wall or sheet pile into the levee, rebuilding a levee because of internal geotechnical flaws, or adding a stability berm.

(2) Notwithstanding paragraph (1), an upgrade of a project levee does not include any action undertaken on an emergency basis.

SEC. 9. Section 12585.12 is added to the Water Code, to read:

12585.12. The department and the board may participate with the federal government or local agencies in the design of environmental enhancements associated with a federal flood control project, and may participate in the construction of environmental enhancements associated with a federal flood control project for which the state has authorized state participation.

SEC. 10. Section 12878 of the Water Code is amended to read:

12878. Unless the context otherwise requires, the following definitions apply throughout this chapter:

(a) "Department" means Department of Water Resources.

(b) "Director" means the Director of Water Resources.

(c) "Board" means the State Reclamation Board.

(d) Wherever the words "board or department" or "board or director" are used together in this chapter they shall mean board as to any project in the Sacramento or San Joaquin Valleys or on or near the Sacramento River or the San Joaquin River or any of their tributaries, and department or director as to any project in any other part of the state outside of the jurisdiction of the board.

(e) "Project" means any project that has been authorized pursuant to Chapter 2 (commencing with Section 12639) or Chapter 4 (commencing with Section 12850) and concerning which assurances have been given

to the Secretary of the Army or the Secretary of Agriculture that the state or a political subdivision thereof will operate and maintain the project works in accordance with regulations prescribed by the federal government or any project upon which assurances have been given to the Secretary of the Army and upon which the Corps of Engineers, United States Army, has performed work pursuant to Section 208 of Public Law 780, 83rd Congress, 2nd Session, approved September 3, 1954.

(f) "Maintenance" means work described as maintenance by the federal regulations issued by the Secretary of the Army, the Secretary of Agriculture, the department, or the board for any project.

(g) "Maintenance area" means described or delineated lands that are found by the board or department to be benefited by the maintenance and operation of a particular unit of a project.

(h) "Unit" means any portion of the works of a project designated as a unit by the board or department, other than the works prescribed in Section 8361, or works operated and maintained by the United States.

(i) "Land" includes improvements.

(j) "Local agency" means and includes all districts or other public agencies responsible for the operation of works of any project under Section 8370, Chapter 2 (commencing with Section 12639) or Chapter 4 (commencing with Section 12850) or any other law of this state.

(k) "Cost of operation and maintenance" means, for the purposes of maintenance areas established after July 31, 2004, as the result of relinquishment by a local agency pursuant to Section 12878.1 only, the cost of all maintenance, as defined in subdivision (f), and shall also include, but is not limited to, all of the following costs:

(1) All costs incurred by the department or the board in the formation of the maintenance area under this chapter.

(2) Any costs, if deemed appropriate by the department, to secure insurance covering liability to others for damages arising from the maintenance activities of the department or from flooding in the maintenance area.

(3) Any costs of defending any action brought against the state, the department, or the board, or any employees of these entities, for damages arising from the maintenance activities of the department or from flooding in the maintenance area.

(4) Any costs incurred in the payment of any judgment or settlement of an action against the state, the department, or the board, or any employees of these entities, for damages arising from the formation of the maintenance area or from any maintenance activities of the department or flooding in the maintenance area.

SEC. 11. Section 12878.1 of the Water Code is amended to read:

12878.1. (a) If the department determines that a unit of a project is not being operated or maintained in accordance with the standards established by federal regulations, if the department determines that the modification of a unit of a project that has been permitted by the board and that provides flood protection is not being operated or maintained in accordance with the requirements established by the board or the department, or if the governing body of a local agency obligated to operate and maintain that unit by resolution duly adopted and filed with the department declares that it no longer desires to operate and maintain the project unit, the department shall prepare a statement to that effect specifying in detail the particular items of work necessary to be done in order to comply with the standards of the federal government and the requirements of the board or the department together with an estimate of the cost thereof for the current fiscal year and for the immediately ensuing fiscal year.

(b) Subject to subdivision (c), but notwithstanding any other provision of law, the board or the department is not required to proceed in accordance with subdivision (a) or with the formation of a maintenance area under this chapter if neither the board nor the department has given the nonfederal assurances to the United States required for the project. If neither the board nor the department has given the nonfederal assurances to the United States required for the project, the board or department may elect to proceed with the formation if it determines that the formation of a maintenance area is in the best interest of the state.

(c) If a local agency requests the department to form a maintenance area by resolution duly adopted and filed with the department, the department shall estimate the cost of preparing the statement of necessary work and the cost thereof, and all other applicable costs incurred by the department before the formation of the maintenance area. The department shall submit that estimate to the local agency. The department is not required to perform any additional work to form that maintenance area until the local agency pays the department the amount estimated pursuant to this subdivision.

SEC. 12. Section 12878.21 of the Water Code is amended to read:

12878.21. Upon the formation of a maintenance area, the department shall thereafter operate and maintain the unit until such time as the maintenance area may be dissolved pursuant to this chapter. If the board or the department forms a maintenance area for a portion of a unit of a project, any remaining portion of the unit of a project not included in the maintenance area shall remain the responsibility of the local agency obligated to operate and maintain that unit.

SEC. 13. Section 12878.23 of the Water Code is amended to read:

12878.23. (a) The board or the department may modify the boundaries of any established maintenance area or zones within the maintenance area, the description of works to be maintained within the maintenance area, and the determination of relative benefits within any zone, upon its own initiative or upon petition by the governing body of the local agency formerly responsible for the operation and maintenance of the unit or by the board of supervisors of the county in which all or a portion of the unit is located.

(b) The board or the department may consolidate maintenance areas that share a common boundary.

SEC. 14. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

However, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

CHAPTER 369

An act to amend Sections 65302, 65303.4, 65352, 65584.04, and 65584.06 of, and to add Sections 65300.2 and 65302.7 to, the Government Code, relating to local planning.

[Approved by Governor October 10, 2007. Filed with Secretary of State October 10, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 65300.2 is added to the Government Code, to read:

65300.2. (a) For the purposes of this article, a "200-year flood plain" is an area that has a 1 in 200 chance of flooding in any given year, based on hydrological modeling and other engineering criteria accepted by the Department of Water Resources.

(b) For the purposes of this article, a "levee protection zone" is an area that is protected, as determined by the Central Valley Flood Protection Board or the Department of Water Resources, by a levee that

is part of the facilities of the State Plan of Flood Control, as defined under Section 5096.805 of the Public Resources Code.

SEC. 1.5. Section 65302 of the Government Code is amended to read:

65302. The general plan shall consist of a statement of development policies and shall include a diagram or diagrams and text setting forth objectives, principles, standards, and plan proposals. The plan shall include the following elements:

(a) A land use element that designates the proposed general distribution and general location and extent of the uses of the land for housing, business, industry, open space, including agriculture, natural resources, recreation, and enjoyment of scenic beauty, education, public buildings and grounds, solid and liquid waste disposal facilities, and other categories of public and private uses of land. The location and designation of the extent of the uses of the land for public and private uses shall consider the identification of land and natural resources pursuant to paragraph (3) of subdivision (d). The land use element shall include a statement of the standards of population density and building intensity recommended for the various districts and other territory covered by the plan. The land use element shall identify and annually review those areas covered by the plan that are subject to flooding identified by flood plain mapping prepared by the Federal Emergency Management Agency (FEMA) or the Department of Water Resources. The land use element shall also do both of the following:

(1) Designate in a land use category that provides for timber production those parcels of real property zoned for timberland production pursuant to the California Timberland Productivity Act of 1982, Chapter 6.7 (commencing with Section 51100) of Part 1 of Division 1 of Title 5.

(2) Consider the impact of new growth on military readiness activities carried out on military bases, installations, and operating and training areas, when proposing zoning ordinances or designating land uses covered by the general plan for land, or other territory adjacent to military facilities, or underlying designated military aviation routes and airspace.

(A) In determining the impact of new growth on military readiness activities, information provided by military facilities shall be considered. Cities and counties shall address military impacts based on information from the military and other sources.

(B) The following definitions govern this paragraph:

(i) "Military readiness activities" mean all of the following:

(I) Training, support, and operations that prepare the men and women of the military for combat.

(II) Operation, maintenance, and security of any military installation.

(III) Testing of military equipment, vehicles, weapons, and sensors for proper operation or suitability for combat use.

(ii) "Military installation" means a base, camp, post, station, yard, center, homeport facility for any ship, or other activity under the jurisdiction of the United States Department of Defense as defined in paragraph (1) of subsection (e) of Section 2687 of Title 10 of the United States Code.

(b) A circulation element consisting of the general location and extent of existing and proposed major thoroughfares, transportation routes, terminals, any military airports and ports, and other local public utilities and facilities, all correlated with the land use element of the plan.

(c) A housing element as provided in Article 10.6 (commencing with Section 65580).

(d) (1) A conservation element for the conservation, development, and utilization of natural resources including water and its hydraulic force, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals, and other natural resources. The conservation element shall consider the effect of development within the jurisdiction, as described in the land use element, on natural resources located on public lands, including military installations. That portion of the conservation element including waters shall be developed in coordination with any countywide water agency and with all district and city agencies, including flood management, water conservation, or groundwater agencies that have developed, served, controlled, managed, or conserved water of any type for any purpose in the county or city for which the plan is prepared. Coordination shall include the discussion and evaluation of any water supply and demand information described in Section 65352.5, if that information has been submitted by the water agency to the city or county.

(2) The conservation element may also cover all of the following:

(A) The reclamation of land and waters.

(B) Prevention and control of the pollution of streams and other waters.

(C) Regulation of the use of land in stream channels and other areas required for the accomplishment of the conservation plan.

(D) Prevention, control, and correction of the erosion of soils, beaches, and shores.

(E) Protection of watersheds.

(F) The location, quantity and quality of the rock, sand and gravel resources.

(3) Upon the next revision of the housing element on or after January 1, 2009, the conservation element shall identify rivers, creeks, streams, flood corridors, riparian habitats, and land that may accommodate

floodwater for purposes of groundwater recharge and stormwater management.

(e) An open-space element as provided in Article 10.5 (commencing with Section 65560).

(f) (1) A noise element which shall identify and appraise noise problems in the community. The noise element shall recognize the guidelines established by the Office of Noise Control in the State Department of Health Care Services and shall analyze and quantify, to the extent practicable, as determined by the legislative body, current and projected noise levels for all of the following sources:

(A) Highways and freeways.

(B) Primary arterials and major local streets.

(C) Passenger and freight on-line railroad operations and ground rapid transit systems.

(D) Commercial, general aviation, heliport, helistop, and military airport operations, aircraft overflights, jet engine test stands, and all other ground facilities and maintenance functions related to airport operation.

(E) Local industrial plants, including, but not limited to, railroad classification yards.

(F) Other ground stationary noise sources, including, but not limited to, military installations, identified by local agencies as contributing to the community noise environment.

(2) Noise contours shall be shown for all of these sources and stated in terms of community noise equivalent level (CNEL) or day-night average level (L_{dn}). The noise contours shall be prepared on the basis of noise monitoring or following generally accepted noise modeling techniques for the various sources identified in paragraphs (1) to (6), inclusive.

(3) The noise contours shall be used as a guide for establishing a pattern of land uses in the land use element that minimizes the exposure of community residents to excessive noise.

(4) The noise element shall include implementation measures and possible solutions that address existing and foreseeable noise problems, if any. The adopted noise element shall serve as a guideline for compliance with the state's noise insulation standards.

(g) (1) A safety element for the protection of the community from any unreasonable risks associated with the effects of seismically induced surface rupture, ground shaking, ground failure, tsunami, seiche, and dam failure; slope instability leading to mudslides and landslides; subsidence, liquefaction, and other seismic hazards identified pursuant to Chapter 7.8 (commencing with Section 2690) of Division 2 of the Public Resources Code, and other geologic hazards known to the legislative body; flooding; and wild land and urban fires. The safety

element shall include mapping of known seismic and other geologic hazards. It shall also address evacuation routes, military installations, peakload water supply requirements, and minimum road widths and clearances around structures, as those items relate to identified fire and geologic hazards.

(2) The safety element, upon the next revision of the housing element on or after January 1, 2009, shall also do the following:

(A) Identify information regarding flood hazards, including, but not limited to, the following:

(i) Flood hazard zones. As used in this subdivision, "flood hazard zone" means an area subject to flooding that is delineated as either a special hazard area or an area of moderate or minimal hazard on an official flood insurance rate map issued by the Federal Emergency Management Agency. The identification of a flood hazard zone does not imply that areas outside the flood hazard zones or uses permitted within flood hazard zones will be free from flooding or flood damage.

(ii) National Flood Insurance Program maps published by FEMA.

(iii) Information about flood hazards that is available from the United States Army Corps of Engineers.

(iv) Designated floodway maps that are available from the Central Valley Flood Protection Board.

(v) Dam failure inundation maps prepared pursuant to Section 8589.5 that are available from the Office of Emergency Services.

(vi) Awareness Floodplain Mapping Program maps and 200-year flood plain maps that are or may be available from, or accepted by, the Department of Water Resources.

(vii) Maps of levee protection zones.

(viii) Areas subject to inundation in the event of the failure of project or nonproject levees or floodwalls.

(ix) Historical data on flooding, including locally prepared maps of areas that are subject to flooding, areas that are vulnerable to flooding after wildfires, and sites that have been repeatedly damaged by flooding.

(x) Existing and planned development in flood hazard zones, including structures, roads, utilities, and essential public facilities.

(xi) Local, state, and federal agencies with responsibility for flood protection, including special districts and local offices of emergency services.

(B) Establish a set of comprehensive goals, policies, and objectives based on the information identified pursuant to subparagraph (A), for the protection of the community from the unreasonable risks of flooding, including, but not limited to:

(i) Avoiding or minimizing the risks of flooding to new development.

(ii) Evaluating whether new development should be located in flood hazard zones, and identifying construction methods or other methods to minimize damage if new development is located in flood hazard zones.

(iii) Maintaining the structural and operational integrity of essential public facilities during flooding.

(iv) Locating, when feasible, new essential public facilities outside of flood hazard zones, including hospitals and health care facilities, emergency shelters, fire stations, emergency command centers, and emergency communications facilities or identifying construction methods or other methods to minimize damage if these facilities are located in flood hazard zones.

(v) Establishing cooperative working relationships among public agencies with responsibility for flood protection.

(C) Establish a set of feasible implementation measures designed to carry out the goals, policies, and objectives established pursuant to subparagraph (B).

(3) After the initial revision of the safety element pursuant to paragraph (2), upon each revision of the housing element, the planning agency shall review and, if necessary, revise the safety element to identify new information that was not available during the previous revision of the safety element.

(4) Cities and counties that have flood plain management ordinances that have been approved by FEMA that substantially comply with this section, or have substantially equivalent provisions to this subdivision in their general plans, may use that information in the safety element to comply with this subdivision, and shall summarize and incorporate by reference into the safety element the other general plan provisions or the flood plain ordinance, specifically showing how each requirement of this subdivision has been met.

(5) Prior to the periodic review of its general plan and prior to preparing or revising its safety element, each city and county shall consult the California Geological Survey of the Department of Conservation, the Central Valley Flood Protection Board, if the city or county is located within the boundaries of the Sacramento and San Joaquin Drainage District, as set forth in Section 8501 of the Water Code, and the Office of Emergency Services for the purpose of including information known by and available to the department, the office, and the board required by this subdivision.

(6) To the extent that a county's safety element is sufficiently detailed and contains appropriate policies and programs for adoption by a city, a city may adopt that portion of the county's safety element that pertains to the city's planning area in satisfaction of the requirement imposed by this subdivision.

SEC. 2. Section 65302.7 is added to the Government Code, to read:

65302.7. (a) For the purposes of complying with Section 65302.5, each county or city located within the boundaries of the Sacramento and San Joaquin Drainage District, as set forth in Section 8501 of the Water Code, shall submit the draft element of, or draft amendment to, the safety element to the Central Valley Flood Protection Board and to every local agency that provides flood protection to territory in the city or county at least 90 days prior to the adoption of, or amendment to, the safety element of its general plan.

(b) The Central Valley Flood Protection Board and each local agency described in paragraph (1) shall review the draft or an existing safety element and report their respective written recommendations to the planning agency within 60 days of the receipt of the draft or existing safety element. The Central Valley Flood Protection Board and each local agency shall review the draft or existing safety element and may offer written recommendations for changes to the draft or existing safety element regarding both of the following:

(1) Uses of land and policies in areas subjected to flooding that will protect life, property, and natural resources from unreasonable risks associated with flooding.

(2) Methods and strategies for flood risk reduction and protection within areas subjected to flooding.

(c) Prior to the adoption of its draft element or draft amendments to the safety element, the board of supervisors of the county or the city council of a city shall consider the recommendations made by the Central Valley Flood Protection Board and any local agency that provides flood protection to territory in the city or county. If the board of supervisors or the city council determines not to accept all or some of the recommendations, if any, made by the Central Valley Flood Protection Board or the local agency, the board of supervisors or the city council shall make findings that state its reasons for not accepting a recommendation and shall communicate those findings in writing to the Central Valley Flood Protection Board or to the local agency.

(d) If the Central Valley Flood Protection Board's or the local agency's recommendations are not available within the time limits required by this section, the board of supervisors or the city council may act without those recommendations. The board of supervisors or city council shall consider the recommendations at the next time it considers amendments to its safety element.

SEC. 3. Section 65303.4 of the Government Code is amended to read:

65303.4. The Department of Water Resources or the Central Valley Flood Protection Board, as appropriate, and the Department of Fish and

Game may develop site design and planning policies to assist local agencies which request help in implementing the general plan guidelines for meeting flood control objectives and other land management needs.

SEC. 4. Section 65352 of the Government Code is amended to read:

65352. (a) Prior to action by a legislative body to adopt or substantially amend a general plan, the planning agency shall refer the proposed action to all of the following entities:

(1) A city or county, within or abutting the area covered by the proposal, and any special district that may be significantly affected by the proposed action, as determined by the planning agency.

(2) An elementary, high school, or unified school district within the area covered by the proposed action.

(3) The local agency formation commission.

(4) An areawide planning agency whose operations may be significantly affected by the proposed action, as determined by the planning agency.

(5) A federal agency if its operations or lands within its jurisdiction may be significantly affected by the proposed action, as determined by the planning agency.

(6) (A) The branches of the United States Armed Forces that have provided the Office of Planning and Research with a California mailing address pursuant to subdivision (d) of Section 65944 when the proposed action is within 1,000 feet of a military installation, or lies within special use airspace, or beneath a low-level flight path, as defined in Section 21098 of the Public Resources Code, provided that the United States Department of Defense provides electronic maps of low-level flight paths, special use airspace, and military installations at a scale and in an electronic format that is acceptable to the Office of Planning and Research.

(B) Within 30 days of a determination by the Office of Planning and Research that the information provided by the Department of Defense is sufficient and in an acceptable scale and format, the office shall notify cities, counties, and cities and counties of the availability of the information on the Internet. Cities, counties, and cities and counties shall comply with subparagraph (A) within 30 days of receiving this notice from the office.

(7) A public water system, as defined in Section 116275 of the Health and Safety Code, with 3,000 or more service connections, that serves water to customers within the area covered by the proposal. The public water system shall have at least 45 days to comment on the proposed plan, in accordance with subdivision (b), and to provide the planning agency with the information set forth in Section 65352.5.

(8) The Bay Area Air Quality Management District for a proposed action within the boundaries of the district.

(9) On and after March 1, 2005, a California Native American tribe, that is on the contact list maintained by the Native American Heritage Commission, with traditional lands located within the city or county's jurisdiction.

(10) The Central Valley Flood Protection Board for a proposed action within the boundaries of the Sacramento and San Joaquin Drainage District, as set forth in Section 8501 of the Water Code.

(b) Each entity receiving a proposed general plan or amendment of a general plan pursuant to this section shall have 45 days from the date the referring agency mails it or delivers it in which to comment unless a longer period is specified by the planning agency.

(c) (1) This section is directory, not mandatory, and the failure to refer a proposed action to the other entities specified in this section does not affect the validity of the action, if adopted.

(2) To the extent that the requirements of this section conflict with the requirements of Chapter 4.4 (commencing with Section 65919), the requirements of Chapter 4.4 shall prevail.

SEC. 5. Section 65584.04 of the Government Code is amended to read:

65584.04. (a) At least two years prior to a scheduled revision required by Section 65588, each council of governments, or delegate subregion as applicable, shall develop a proposed methodology for distributing the existing and projected regional housing need to cities, counties, and cities and counties within the region or within the subregion, where applicable pursuant to this section. The methodology shall be consistent with the objectives listed in subdivision (d) of Section 65584.

(b) (1) No more than six months prior to the development of a proposed methodology for distributing the existing and projected housing need, each council of governments shall survey each of its member jurisdictions to request, at a minimum, information regarding the factors listed in subdivision (d) that will allow the development of a methodology based upon the factors established in subdivision (d).

(2) The council of governments shall seek to obtain the information in a manner and format that is comparable throughout the region and utilize readily available data to the extent possible.

(3) The information provided by a local government pursuant to this section shall be used, to the extent possible, by the council of governments, or delegate subregion as applicable, as source information for the methodology developed pursuant to this section. The survey shall state that none of the information received may be used as a basis for

reducing the total housing need established for the region pursuant to Section 65584.01.

(4) If the council of governments fails to conduct a survey pursuant to this subdivision, a city, county, or city and county may submit information related to the items listed in subdivision (d) prior to the public comment period provided for in subdivision (c).

(c) Public participation and access shall be required in the development of the methodology and in the process of drafting and adoption of the allocation of the regional housing needs. Participation by organizations other than local jurisdictions and councils of governments shall be solicited in a diligent effort to achieve public participation of all economic segments of the community. The proposed methodology, along with any relevant underlying data and assumptions, and an explanation of how information about local government conditions gathered pursuant to subdivision (b) has been used to develop the proposed methodology, and how each of the factors listed in subdivision (d) is incorporated into the methodology, shall be distributed to all cities, counties, any subregions, and members of the public who have made a written request for the proposed methodology. The council of governments, or delegate subregion, as applicable, shall conduct at least one public hearing to receive oral and written comments on the proposed methodology.

(d) To the extent that sufficient data is available from local governments pursuant to subdivision (b) or other sources, each council of governments, or delegate subregion as applicable, shall include the following factors to develop the methodology that allocates regional housing needs:

(1) Each member jurisdiction's existing and projected jobs and housing relationship.

(2) The opportunities and constraints to development of additional housing in each member jurisdiction, including all of the following:

(A) Lack of capacity for sewer or water service due to federal or state laws, regulations or regulatory actions, or supply and distribution decisions made by a sewer or water service provider other than the local jurisdiction that preclude the jurisdiction from providing necessary infrastructure for additional development during the planning period.

(B) The availability of land suitable for urban development or for conversion to residential use, the availability of underutilized land, and opportunities for infill development and increased residential densities. The council of governments may not limit its consideration of suitable housing sites or land suitable for urban development to existing zoning ordinances and land use restrictions of a locality, but shall consider the potential for increased residential development under alternative zoning ordinances and land use restrictions. The determination of available land

suitable for urban development may exclude lands where the Federal Emergency Management Agency (FEMA) or the Department of Water Resources has determined that the flood management infrastructure designed to protect that land is not adequate to avoid the risk of flooding.

(C) Lands preserved or protected from urban development under existing federal or state programs, or both, designed to protect open space, farmland, environmental habitats, and natural resources on a long-term basis.

(D) County policies to preserve prime agricultural land, as defined pursuant to Section 56064, within an unincorporated area.

(3) The distribution of household growth assumed for purposes of a comparable period of regional transportation plans and opportunities to maximize the use of public transportation and existing transportation infrastructure.

(4) The market demand for housing.

(5) Agreements between a county and cities in a county to direct growth toward incorporated areas of the county.

(6) The loss of units contained in assisted housing developments, as defined in paragraph (8) of subdivision (a) of Section 65583, that changed to non-low-income use through mortgage prepayment, subsidy contract expirations, or termination of use restrictions.

(7) High-housing cost burdens.

(8) The housing needs of farmworkers.

(9) The housing needs generated by the presence of a private university or a campus of the California State University or the University of California within any member jurisdiction.

(10) Any other factors adopted by the council of governments.

(e) The council of governments, or delegate subregion, as applicable, shall explain in writing how each of the factors described in subdivision (d) was incorporated into the methodology and how the methodology is consistent with subdivision (d) of Section 65584. The methodology may include numerical weighting.

(f) Any ordinance, policy, voter-approved measure, or standard of a city or county that directly or indirectly limits the number of residential building permits issued by a city or county shall not be a justification for a determination or a reduction in the share of a city or county of the regional housing need.

(g) In addition to the factors identified pursuant to subdivision (d), the council of governments, or delegate subregion, as applicable, shall identify any existing local, regional, or state incentives, such as a priority for funding or other incentives available to those local governments that are willing to accept a higher share than proposed in the draft allocation

to those local governments by the council of governments or delegate subregion pursuant to Section 65584.05.

(h) Following the conclusion of the 60-day public comment period described in subdivision (c) on the proposed allocation methodology, and after making any revisions deemed appropriate by the council of governments, or delegate subregion, as applicable, as a result of comments received during the public comment period, each council of governments, or delegate subregion, as applicable, shall adopt a final regional, or subregional, housing need allocation methodology and provide notice of the adoption of the methodology to the jurisdictions within the region, or delegate subregion as applicable, and to the department.

SEC. 6. Section 65584.06 of the Government Code is amended to read:

65584.06. (a) For cities and counties without a council of governments, the department shall determine and distribute the existing and projected housing need, in accordance with Section 65584 and this section. If the department determines that a county or counties, supported by a resolution adopted by the board or boards of supervisors, and a majority of cities within the county or counties representing a majority of the population of the county or counties, possess the capability and resources and has agreed to accept the responsibility, with respect to its jurisdiction, for the distribution of the regional housing need, the department shall delegate this responsibility to the cities and county or counties.

(b) The distribution of regional housing need shall, based upon available data and in consultation with the cities and counties, take into consideration market demand for housing, the distribution of household growth within the county assumed in the regional transportation plan where applicable, employment opportunities and commuting patterns, the availability of suitable sites and public facilities, agreements between a county and cities in a county to direct growth toward incorporated areas of the county, or other considerations as may be requested by the affected cities or counties and agreed to by the department. As part of the allocation of the regional housing need, the department shall provide each city and county with data describing the assumptions and methodology used in calculating its share of the regional housing need. Consideration of suitable housing sites or land suitable for urban development is not limited to existing zoning ordinances and land use restrictions of a locality, but shall include consideration of the potential for increased residential development under alternative zoning ordinances and land use restrictions. The determination of available land suitable for urban development may exclude lands where the Federal Emergency

Management Agency (FEMA) or the Department of Water Resources has determined that the flood management infrastructure designed to protect that land is not adequate to avoid the risk of flooding.

(c) Within 90 days following the department's determination of a draft distribution of the regional housing need to the cities and the county, a city or county may propose to revise the determination of its share of the regional housing need in accordance with criteria set forth in the draft distribution. The proposed revised share shall be based upon comparable data available for all affected jurisdictions, and accepted planning methodology, and shall be supported by adequate documentation.

(d) (1) Within 60 days after the end of the 90-day time period for the revision by the cities or county, the department shall accept the proposed revision, modify its earlier determination, or indicate why the proposed revision is inconsistent with the regional housing need.

(2) If the department does not accept the proposed revision, then, within 30 days, the city or county may request a public hearing to review the determination.

(3) The city or county shall be notified within 30 days by certified mail, return receipt requested, of at least one public hearing regarding the determination.

(4) The date of the hearing shall be at least 10 but not more than 15 days from the date of the notification.

(5) Before making its final determination, the department shall consider all comments received and shall include a written response to each request for revision received from a city or county.

(e) If the department accepts the proposed revision or modifies its earlier determination, the city or county shall use that share. If the department grants a revised allocation pursuant to subdivision (d), the department shall ensure that the total regional housing need is maintained. The department's final determination shall be in writing and shall include information explaining how its action is consistent with this section. If the department indicates that the proposed revision is inconsistent with the regional housing need, the city or county shall use the share that was originally determined by the department. The department, within its final determination, may adjust the allocation of a city or county that was not the subject of a request for revision of the draft distribution.

(f) The department shall issue a final regional housing need allocation for all cities and counties within 45 days of the completion of the local review period.

SEC. 7. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or

assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

CHAPTER 370

An act to amend Sections 71200, 71201, 71204, and 71205 of, and to add Section 71204.6 to, the Public Resources Code, relating to vessels.

[Approved by Governor October 10, 2007. Filed with Secretary of State October 10, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 71200 of the Public Resources Code is amended to read:

71200. Unless the context otherwise requires, the following definitions govern the construction of this division:

(a) "Ballast tank" means a tank or hold on a vessel used for carrying ballast water, whether or not the tank or hold was designed for that purpose.

(b) "Ballast water" means water and suspended matter taken on board a vessel to control or maintain trim, draft, stability, or stresses of the vessel, without regard to the manner in which it is carried.

(c) "Board" means the State Water Resources Control Board.

(d) "Coastal waters" means estuarine and ocean waters within 200 nautical miles of land or less than 2,000 meters (6,560 feet, 1,093 fathoms) deep, and rivers, lakes, or other water bodies navigably connected to the ocean.

(e) "Commission" means the State Lands Commission.

(f) "EEZ" means exclusive economic zone, which extends from the baseline of the territorial sea of the United States seaward 200 nautical miles.

(g) "Exchange" means to replace the water in a ballast tank using either of the following methods:

(1) "Flow through exchange," which means to flush out ballast water by pumping three full volumes of mid-ocean water through the tank, continuously displacing water from the tank, to minimize the number of original coastal organisms remaining in the tank.

(2) "Empty/refill exchange," which means to pump out, until the tank is empty or as close to 100 percent empty as is safe to do so, the ballast

water taken on in ports, or estuarine or territorial waters, then to refill the tank with mid-ocean waters.

(h) "Hull fouling" means the attachment or association of marine organisms to the submerged portion of a vessel or its appurtenances, including, but not limited to, sea chests, propellers, anchors, and associated chains.

(i) "Mid-ocean waters" means waters that are more than 200 nautical miles from land and at least 2,000 meters (6,560 feet, 1,093 fathoms) deep.

(j) "Nonindigenous species" means any species, including, but not limited to, the seeds, eggs, spores, or other biological material capable of reproducing that species, or any other viable biological material that enters an ecosystem beyond its historic range, including any of those organisms transferred from one country into another.

(k) "Pacific Coast Region" means all coastal waters on the Pacific Coast of North America east of 154 degrees W longitude and north of 25 degrees N latitude, exclusive of the Gulf of California. The commission may modify these boundaries through regulation if the proponent for the boundary modification presents substantial scientific evidence that the proposed modification is equally or more effective at preventing the introduction of nonindigenous species through vessel vectors as the boundaries described herein.

(*l*) "Person" means an individual, trust, firm, joint stock company, business concern, or corporation, including, but not limited to, a government corporation, partnership, limited liability company, or association. "Person" also means a city, county, city and county, district, commission, the state, or a department, agency, or political subdivision of the state, an interstate body, or the United States and its agencies and instrumentalities, to the extent permitted by law.

(m) "Sediments" means matter settled out of ballast water within a vessel.

(n) "Submerged portion of a vessel" means all parts of a vessel's hull and structures that are submerged in water when the vessel is loaded to the deepest permissible legal draft.

(o) "Waters of the state" means surface waters, including saline waters, that are within the boundaries of the state.

(p) "Vessel" means a vessel of 300 gross registered tons or more.

(q) "Voyage" means any transit by a vessel destined for a California port or place from a port or place outside of the coastal waters of the state.

SEC. 2. Section 71201 of the Public Resources Code is amended to read:

71201. (a) This division applies to all vessels, United States and foreign, carrying, or capable of carrying, ballast water into the coastal waters of the state after operating outside of the coastal waters of the state, except those vessels described in Section 71202.

(b) This division applies to all ballast water and associated sediments taken on a vessel, and to all hull fouling.

(c) This division may be known, and may be cited, as the "Marine Invasive Species Act."

(d) The Legislature finds and declares that the purpose of this division is to move the state expeditiously toward elimination of the discharge of nonindigenous species into the waters of the state or into waters that may impact the waters of the state, based on the best available technology economically achievable. This division shall be implemented in accordance with this intent, except as expressly provided by this division.

SEC. 3. Section 71204 of the Public Resources Code is amended to read:

71204. Subject to Section 71203, the master, owner, operator, or person in charge of a vessel carrying, or capable of carrying, ballast water, that operates in the waters of the state shall do all of the following to minimize the uptake and the release of nonindigenous species:

(a) Discharge only the minimal amount of ballast water essential for vessel operations while in the waters of the state.

(b) Minimize the discharge or uptake of ballast water in areas within, or that may directly affect, marine sanctuaries, marine preserves, marine parks, or coral reefs.

(c) Minimize or avoid uptake of ballast water in all of the following areas and circumstances:

(1) Areas known to have infestations or populations of nonindigenous organisms and pathogens.

(2) Areas near a sewage outfall.

(3) Areas for which the master, owner, operator, or person in charge of a vessel has been informed of the presence of toxic algal blooms.

(4) Areas where tidal flushing is known to be poor or in turbid waters.

(5) In darkness when bottom-dwelling organisms may rise up in the water column.

(6) Areas where sediments have been disturbed, such as near dredging operations or where propellers may have recently stirred up the sediment.

(d) Clean the ballast tanks regularly in mid-ocean waters, or under controlled arrangements in port or in drydock, to remove fouling organisms and sediments, and dispose of those organisms and sediments in accordance with local, state, and federal law.

(e) Rinse anchors and anchor chains when retrieving the anchor to remove organisms and sediments at their place of origin.

(f) (1) Remove hull fouling organisms from hull, piping, propellers, sea chests, and other submerged portions of a vessel, on a regular basis, and dispose of removed substances in accordance with local, state, and federal law.

(2) For purposes of paragraph (1), prior to and until the date that the regulations described in Section 71204.6 are adopted, "regular basis" means any of the following:

(A) No longer than by the date of expiration on the vessel's full-term Safety Construction Certificate or an extension of that expiration date.

(B) No longer than by the date of expiration of the vessel's full-term United States Coast Guard Certificate of Inspection or an extension of that expiration date by the United States Coast Guard.

(C) No longer than 60 months since the time of the vessel's last out-of-water drydocking. The commission may approve a time extension to this period.

(3) Inwater cleaning that is performed on the submerged portions of a vessel while in the waters of the state shall be conducted using best available technologies economically achievable, and designed to minimize the release of coating and biological materials, cleaning agents, and byproducts of the cleaning process into the surrounding waters. The cleaning shall be performed in accordance with local, state, and federal law.

(g) Provide access to the commission, upon request, for sampling of ballast intake and discharge.

(h) Maintain a ballast water management plan that was prepared specifically for the vessel and that shall, upon request, be made available to the commission for inspection and review. This plan shall be specific to each vessel and shall provide, at a minimum, a description of the ballast water management strategy for the vessel that is sufficiently detailed to allow a master or other appropriate ship's officer or crew member serving on that vessel to understand and follow the ballast water management strategy.

(i) Train the master, operator, person in charge, and those members of the crew who have responsibilities under the vessel's ballast water management plan, on the application of ballast water and sediment management and treatment procedures, as well as procedures described in this section, in order to minimize other releases of nonindigenous species from vessels.

SEC. 4. Section 71204.6 is added to the Public Resources Code, to read:

71204.6. On or before January 1, 2012, the commission, in consultation with the board, the United States Coast Guard, and a technical advisory group consisting of interested persons including, but

not limited to, shipping, port, and environmental conservation representatives, shall develop and adopt regulations governing the management of hull fouling on vessels arriving at a California port or place. The commission shall consider vessel design and voyage duration in developing the regulations. The regulations shall be based on the best available technology economically achievable and shall be designed to protect the waters of the state.

SEC. 5. Section 71205 of the Public Resources Code is amended to read:

71205. (a) (1) The master, owner, operator, agent, or person in charge of a vessel carrying, or capable of carrying, ballast water, that visits a California port or place, shall provide the information described in subdivision (c) in electronic or written form to the commission upon the vessel's departure from each port or place of call in California.

(2) The information described in subdivision (c) shall be submitted using a form developed by the United States Coast Guard.

(b) If the information submitted in accordance with this section changes, an amended form shall be submitted to the commission upon the vessel's departure from each port or place of call in California.

(c) (1) The master, owner, operator, or person in charge of the vessel shall maintain on board the vessel, in written or electronic form, records that include all of the following information:

(A) Vessel information, including all of the following:

(i) Name.

(ii) International Maritime Organization number or official number if the International Maritime Organization number has not been assigned.

(iii) Vessel type.

(iv) Owner or operator.

(v) Gross tonnage.

(vi) Call sign.

(vii) Port of Registry.

(B) Voyage information, including the date and port of arrival, vessel agent, last port and country of call, and next port and country of call.

(C) Ballast water information, including the total ballast water capacity, total volume of ballast water onboard, total number of ballast water tanks, capacity of each ballast water tank, and total number of ballast water tanks in ballast, using measurements in metric tons (MT) and cubic meters (m^3).

(D) Ballast water management information, including all of the following:

(i) The total number of ballast tanks or holds, the contents of which are to be discharged into the waters of the state or to a reception facility.

(ii) If an alternative ballast water management method is used, the number of tanks that were managed using an alternative method, as well as the type of method used.

(iii) Whether the vessel has a ballast water management plan and International Maritime Organization guidelines on board, and whether the ballast water management plan is used.

(iv) Whether the master, operator, or person in charge of the vessel has claimed a safety exemption pursuant to paragraph (1) of subdivision (b) of Section 71203 for the vessel voyage, and the reason for asserting the applicability of that paragraph.

(E) Information on ballast water tanks, the contents of which are to be discharged into the waters of the state or to a reception facility, including all of the following:

(i) The origin of ballast water, including the date and location of intake, volume, and temperature. If a tank has been exchanged, the identity of the loading port of the ballast water that was discharged during the exchange.

(ii) The date, location, volume, method, thoroughness measured by percentage exchanged if exchange is conducted, and sea height at time of exchange if exchange is conducted, of ballast water exchanged or otherwise managed.

(iii) The expected date, location, volume, and salinity of ballast water to be discharged into the waters of the state or a reception facility.

(F) Discharge of sediment and, if sediment is to be discharged within the state, the location of the facility where the disposal will take place.

(G) Certification of accurate information, that shall include the printed name, title, and signature of the master, owner, operator, person in charge, or responsible officer attesting to the accuracy of the information provided and certifying compliance with the requirements of this division.

(H) Changes to previously submitted information.

(2) The master, owner, operator, or person in charge of a vessel subject to this subdivision shall retain a signed copy of the information described in this subdivision on board the vessel for two years.

(d) The master, owner, operator, or person in charge of a vessel subject to this division shall retain for two years a separate ballast water log outlining ballast water management activities for each ballast water tank on board the vessel and shall make the separate ballast water log available to the commission for inspection and review.

(e) (1) The master, owner, operator, agent, or person in charge of a vessel subject to this division shall provide the information described in subdivision (f) in electronic or written form to the commission annually upon request of the commission. The master, owner, operator, agent, or person in charge of the vessel shall submit that information within 60

days of receiving a written or electronic request from the commission. For purposes of this paragraph, the reporting shall begin on January 1, 2008, and continue until the date that the regulations described in Section 71204.6 are adopted.

(2) The information described in subdivision (f) shall be submitted using a form developed by the commission.

(f) The master, owner, operator, agent, or person in charge of a vessel subject to this division shall maintain in written or electronic form, records that include the following information:

(1) (A) Date and location of drydocking events.

(B) Whether the vessel in general, and the submerged portion of the vessel, sea chests, anchors, and associated chains in particular, were cleaned during a drydocking event.

(2) Date and geographic location of all inwater cleaning of the submerged portion of the vessel.

(3) (A) Date and geographic location of all antifouling paint applications to the vessel.

(B) The manufacturer and brand name of the antifouling paint applied to the vessel.

CHAPTER 371

An act to amend Section 13271 of the Water Code, relating to water.

[Approved by Governor October 10, 2007. Filed with Secretary of State October 10, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 13271 of the Water Code is amended to read:

13271. (a) (1) Except as provided by subdivision (b), any person who, without regard to intent or negligence, causes or permits any hazardous substance or sewage to be discharged in or on any waters of the state, or discharged or deposited where it is, or probably will be, discharged in or on any waters of the state, shall, as soon as (A) that person has knowledge of the discharge,(B) notification is possible, and (C) notification can be provided without substantially impeding cleanup or other emergency measures, immediately notify the Office of Emergency Services of the discharge in accordance with the spill reporting provision of the state toxic disaster contingency plan adopted pursuant to Article 3.7 (commencing with Section 8574.16) of Chapter 7 of Division 1 of Title 2 of the Government Code.

(2) The Office of Emergency Services shall immediately notify the appropriate regional board, the local health officer, and the director of environmental health of the discharge. The regional board shall notify the state board as appropriate.

(3) Upon receiving notification of a discharge pursuant to this section, the local health officer and the director of environmental health shall immediately determine whether notification of the public is required to safeguard public health and safety. If so, the local health officer and the director of environmental health shall immediately notify the public of the discharge by posting notices or other appropriate means. The notification shall describe measures to be taken by the public to protect the public health.

(b) The notification required by this section shall not apply to a discharge in compliance with waste discharge requirements or other provisions of this division.

(c) Any person who fails to provide the notice required by this section is guilty of a misdemeanor and shall be punished by a fine of not more than twenty thousand dollars ($20,000) or imprisonment in a county jail for not more than one year, or both. Except where a discharge to the waters of this state would have occurred but for cleanup or emergency response by a public agency, this subdivision shall not apply to any discharge to land which does not result in a discharge to the waters of this state.

(d) Notification received pursuant to this section or information obtained by use of that notification shall not be used against any person providing the notification in any criminal case, except in a prosecution for perjury or giving a false statement.

(e) For substances listed as hazardous wastes or hazardous material pursuant to Section 25140 of the Health and Safety Code, the state board, in consultation with the Department of Toxic Substances Control, shall by regulation establish reportable quantities for purposes of this section. The regulations shall be based on what quantities should be reported because they may pose a risk to public health or the environment if discharged to groundwater or surface water. Regulations need not set reportable quantities on all listed substances at the same time. Regulations establishing reportable quantities shall not supersede waste discharge requirements or water quality objectives adopted pursuant to this division, and shall not supersede or affect in any way the list, criteria, and guidelines for the identification of hazardous wastes and extremely hazardous wastes adopted by the Department of Toxic Substances Control pursuant to Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code. The regulations of the Environmental Protection Agency for reportable quantities of hazardous substances for

purposes of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sec. 9601 et seq.) shall be in effect for purposes of the enforcement of this section until the time that the regulations required by this subdivision are adopted.

(f) (1) The state board shall adopt regulations establishing reportable quantities of sewage for purposes of this section. The regulations shall be based on the quantities that should be reported because they may pose a risk to public health or the environment if discharged to groundwater or surface water. Regulations establishing reportable quantities shall not supersede waste discharge requirements or water quality objectives adopted pursuant to this division. For purposes of this section, "sewage" means the effluent of a municipal wastewater treatment plant or a private utility wastewater treatment plant, as those terms are defined in Section 13625, except that sewage does not include recycled water, as defined in subdivisions (c) and (d) of Section 13529.2.

(2) A collection system owner or operator, as defined in paragraph (1) of subdivision (a) of Section 13193, in addition to the reporting requirements set forth in this section, shall submit a report pursuant to subdivision (c) of Section 13193.

(g) Except as otherwise provided in this section and Section 8589.7 of the Government Code, a notification made pursuant to this section shall satisfy any immediate notification requirement contained in any permit issued by a permitting agency. When notifying the Office of Emergency Services, the person shall include all of the notification information required in the permit.

(h) For the purposes of this section, the reportable quantity for perchlorate shall be 10 pounds or more by discharge to the receiving waters, unless a more restrictive reporting standard for a particular body of water is adopted pursuant to subdivision (e).

(i) Notification under this section does not nullify a person's responsibility to notify the local health officer or the director of environmental health pursuant to Section 5411.5 of the Health and Safety Code.

CHAPTER 372

An act to amend Sections 35515, 35615, and 35625 of, and to repeal and add Section 35605 of, the Public Resources Code, relating to natural resources.

[Approved by Governor October 10, 2007. Filed with Secretary of State October 10, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 35515 of the Public Resources Code is amended to read:

35515. The Legislature finds and declares that the purpose of this division is to integrate and coordinate the state's laws and institutions responsible for protecting and conserving ocean resources, including coastal waters and ocean ecosystems, to accomplish all of the following objectives:

(a) Provide a set of guiding principles for all state agencies to follow, consistent with existing law, in protecting the state's coastal and ocean resources.

(b) Encourage cooperative management with federal agencies, to protect and conserve representative coastal and ocean habitats and the ecological processes that support those habitats.

(c) Improve coordination and management of state efforts to protect and conserve the ocean by establishing a cabinet level oversight body responsible for identifying more efficient methods of protecting the ocean at less cost to taxpayers.

(d) Use California's private and charitable resources more effectively in developing ocean protection and conservation strategies.

(e) Provide for public access to the ocean and ocean resources, including to marine protected areas, for recreational use, and aesthetic, educational, and scientific purposes, consistent with the sustainable long-term conservation of those resources.

(f) Identify scientific research and planning that is useful for the protection and conservation of coastal waters and ocean ecosystems, and coordinate and assist state agencies in addressing those needs.

SEC. 2. Section 35605 of the Public Resources Code is repealed.

SEC. 3. Section 35605 is added to the Public Resources Code, to read:

35605. At the council's first meeting in a calendar year, the council shall elect a chair from among its voting members.

SEC. 4. Section 35615 of the Public Resources Code is amended to read:

35615. The council shall do all of the following:

(a) (1) Coordinate activities of state agencies, that are related to the protection and conservation of coastal waters and ocean ecosystems, to improve the effectiveness of state efforts to protect ocean resources within existing fiscal limitations, consistent with Sections 35510 and 35515.

(2) Establish policies to coordinate the collection, evaluation, and sharing of scientific data related to coastal and ocean resources among agencies.

(3) (A) Establish a science advisory team of distinguished scientists to assist the council in meeting the purposes of this division. At the request of the council, the science advisory team may convene to identify, develop, and prioritize subjects and questions for research or investigation, and review and evaluate results of research or investigations to provide information for the council's activities.

(B) The science advisory team shall include scientists from a range of disciplines that are a part of the council's purview.

(C) The science advisory team shall provide an independent and timely analysis of reports and studies, identifying areas of scientific consensuses or uncertainty, using the best available science by drawing on state, national, and international experts.

(D) Scientists selected as members of the science advisory team shall serve without compensation, except for reimbursement of expenses and subject to the terms of an existing contract with the state.

(4) Contract with the California Ocean Science Trust and other nonprofit organizations, ocean science institutes, academic institutions, or others that have experience in conducting the scientific and educational tasks that are required by the council.

(5) Transmit the results of research and investigations to state agencies to provide information for policy decisions.

(6) Identify and recommend to the Legislature changes in law needed to achieve the goals of this section.

(b) (1) Identify changes in federal law and policy necessary to achieve the goals of this division and to improve protection, conservation, and restoration of ocean ecosystems in federal and state waters off the state's coast.

(2) Recommend to the Governor and the Legislature actions the state should take to encourage those changes in federal law and policy.

SEC. 5. Section 35625 of the Public Resources Code is amended to read:

35625. (a) Under the direction of the Secretary of the Resources Agency, the executive officer of the State Coastal Conservancy shall act as secretary to the council, administer its affairs, and provide the staff services that the council needs to carry out this division, including, but not limited to, both of the following:

(1) Administering grants and expenditures authorized by the council from the fund or other sources, including, but not limited to, block grants from other state boards, commissions, or departments.

(2) Arranging meetings, agendas, and other administrative functions in support of the council.

(b) The Legislature may make appropriations to be used for the purposes of this division directly to the State Coastal Conservancy, for expenditures authorized by the council. If an expenditure has been approved by the council for the purposes of this division, approval of the State Coastal Conservancy is not required, except in the case of block grants provided by the council to be administered by the State Coastal Conservancy.

CHAPTER 373

An act to amend Sections 12017 and 13013 of the Fish and Game Code, to amend Sections 8670.3, 8670.29, 8670.47.5, 8670.48, 8670.48.5, 8670.49, 8670.50, 8670.53.1, 8670.53.2, 8670.53.3, 8670.53.4, 8670.53.5, 8670.53.7, 8670.53.8, and 8670.53.95 of, and to repeal Section 8670.56.7 of, the Government Code, and to amend Sections 46054 and 46653 of the Revenue and Taxation Code, relating to oil spills, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 10, 2007. Filed with Secretary of State October 10, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 12017 of the Fish and Game Code is amended to read:

12017. (a) Notwithstanding Section 13001, any recovery or settlement of money received pursuant to the following sections shall be deposited in the Fish and Wildlife Pollution Account:

(1) Section 2014.

(2) Article 1 (commencing with Section 5650) of Chapter 2 of Part 1 of Division 6.

(3) Section 12015 or 12016.

(4) Chapter 4 (commencing with Section 151) of Division 1.5 of the Harbors and Navigation Code.

(5) Section 13442 of the Water Code.

(6) Proceeds or recoveries from pollution and abatement actions.

(b) Moneys in the account are continuously appropriated to the department, except as provided in Section 13230.

(c) Funds in the account shall be expended for the following purposes:

(1) Abatement, cleanup, and removal of pollutants from the environment.

(2) Response coordination, planning, and program management.

(3) Resource injury determination.

(4) Resource damage assessment.

(5) Economic valuation of resources.

(6) Restoration or rehabilitation at sites damaged by pollution.

(d) Notwithstanding subdivision (c), funds in the account in excess of one million dollars ($1,000,000) as of July 1 of each year may also be expended for the preservation of California plants, wildlife, and fisheries.

(e) Funds in the account may be expended for cleanup and abatement if a reasonable effort has been made to have the responsible party pay cleanup and abatement costs and funds are not available for disbursement from the emergency reserve account of the Toxic Substances Control Account in the General Fund pursuant to Section 25354 of the Health and Safety Code.

(f) The department may use funds in the account to pay the costs of consultant contracts for resource injury determination or damage assessment during hazardous material or oil spill emergencies. These contracts are not subject to Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code.

SEC. 2. Section 13013 of the Fish and Game Code is amended to read:

13013. (a) Appropriations from either the Oil Pollution Administration Subaccount or the Hazardous Materials Administration Subaccount shall not exceed one third of the maximum fund level established under Section 13012 in order to maintain a prudent reserve for future appropriations.

(b) If the director or his or her designee expends funds from the prudent reserve established pursuant to subdivision (a) for activities authorized under subdivision (b) of Section 13230, the director or the director's designee shall ensure that there are adequate funds remaining in those subaccounts to carry out their purposes. Expenditures from the prudent reserve shall be repaid in part, or in full, from any funds received pursuant to Section 13011 until those reserves are fully reimbursed.

(c) The director or his or her designee, shall recover from the spiller, responsible party, or, in the absence of those responsible parties, from a particular pollution abatement or remediation account, all expenditures paid from the accounts established pursuant to subdivisions (b) and (d) of Section 13230, and all costs incurred by the department arising from the administration and enforcement of applicable pollution laws. The director or his or her designee may request, and a district attorney, city

attorney, or other prosecuting agency, as part of a prosecution or negotiation, may allege a claim for, these costs and expenditures and shall deposit any recoveries into the fund from which they were expended.

(d) The director or his or her designee shall ensure that there are adequate funds in the accounts and subaccounts specified in this section to carry out their purposes.

SEC. 3. Section 8670.3 of the Government Code is amended to read:

8670.3. Unless the context requires otherwise, the following definitions shall govern the construction of this chapter:

(a) "Administrator" means the administrator for oil spill response appointed by the Governor pursuant to Section 8670.4.

(b) (1) "Best achievable protection" means the highest level of protection that can be achieved through both the use of the best achievable technology and those manpower levels, training procedures, and operational methods that provide the greatest degree of protection achievable. The administrator's determination of which measures provide the best achievable protection shall be guided by the critical need to protect valuable coastal resources and marine waters, while also considering all of the following:

(A) The protection provided by the measure.

(B) The technological achievability of the measure.

(C) The cost of the measure.

(2) The administrator shall not use a cost-benefit or cost-effectiveness analysis or any particular method of analysis in determining which measures provide the best achievable protection. The administrator shall instead, when determining which measures provide best achievable protection, give reasonable consideration to the protection provided by the measures, the technological achievability of the measures, and the cost of the measures when establishing the requirements to provide the best achievable protection for coastal and marine resources.

(c) (1) "Best achievable technology" means that technology that provides the greatest degree of protection, taking into consideration both of the following:

(A) Processes that are being developed, or could feasibly be developed anywhere in the world, given overall reasonable expenditures on research and development.

(B) Processes that are currently in use anywhere in the world.

(2) In determining what is the best achievable technology pursuant to this chapter, the administrator shall consider the effectiveness and engineering feasibility of the technology.

(d) "Dedicated response resources" means equipment and personnel committed solely to oil spill response, containment, and cleanup that are

not used for any other activity that would adversely affect the ability of that equipment and personnel to provide oil spill response services in the timeframes for which the equipment and personnel are rated.

(e) "Environmentally sensitive area" means an area defined pursuant to the applicable area contingency plans, as created and revised by the Coast Guard and the administrator.

(f) "Local government" means any chartered or general law city, chartered or general law county, or any city and county.

(g) (1) "Marine facility" means any facility of any kind, other than a tank ship or tank barge, that is or was used for the purposes of exploring for, drilling for, producing, storing, handling, transferring, processing, refining, or transporting oil and is located in marine waters, or is located where a discharge could impact marine waters unless the facility is either of the following:

(A) Subject to Chapter 6.67 (commencing with Section 25270) or Chapter 6.75 (commencing with Section 25299.10) of Division 20 of the Health and Safety Code.

(B) Placed on a farm, nursery, logging site, or construction site and does not exceed 20,000 gallons in a single storage tank.

(2) For the purposes of this chapter, "marine facility" includes a drill ship, semisubmersible drilling platform, jack-up type drilling rig, or any other floating or temporary drilling platform.

(3) For the purposes of this chapter, "marine facility" does not include a small craft refueling dock.

(h) (1) "Marine terminal" means any marine facility used for transferring oil to or from a tank ship or tank barge.

(2) "Marine terminal" includes, for purposes of this chapter, all piping not integrally connected to a tank facility, as defined in subdivision (1) of Section 25270.2 of the Health and Safety Code.

(i) "Marine waters" means those waters subject to tidal influence, and includes the waterways used for waterborne commercial vessel traffic to the Port of Sacramento and the Port of Stockton.

(j) "Mobile transfer unit" means a small marine fueling facility that is a vehicle, truck, or trailer, including all connecting hoses and piping, used for the transferring of oil at a location where a discharge could impact marine waters.

(k) "Nondedicated response resources" means those response resources identified by an Oil Spill Response Organization for oil spill response activities that are not dedicated response resources.

(*l*) "Nonpersistent oil" means a petroleum-based oil, such as gasoline, diesel, or jet fuel, that evaporates relatively quickly and is an oil with hydrocarbon fractions, at least 50 percent of which, by volume, distills

at a temperature of 645° Fahrenheit, and at least 95 percent of which, by volume, distills at a temperature of 700° Fahrenheit.

(m) "Nontank vessel" means a vessel of 300 gross tons or greater that carries oil, but does not carry that oil as cargo.

(n) "Oil" means any kind of petroleum, liquid hydrocarbons, or petroleum products or any fraction or residues therefrom, including, but not limited to, crude oil, bunker fuel, gasoline, diesel fuel, aviation fuel, oil sludge, oil refuse, oil mixed with waste, and liquid distillates from unprocessed natural gas.

(o) "Oil spill cleanup agent" means a chemical, or any other substance, used for removing, dispersing, or otherwise cleaning up oil or any residual products of petroleum in, or on, any of the waters of the state.

(p) "Oil spill contingency plan" or "contingency plan" means the oil spill contingency plan required pursuant to Article 5 (commencing with Section 8670.28).

(q) (1) "Oil Spill Response Organization" or "OSRO" means an individual, organization, association, cooperative, or other entity that provides, or intends to provide, equipment, personnel, supplies, or other services directly related to oil spill containment, cleanup, or removal activities.

(2) A "rated OSRO" means an OSRO that has received a satisfactory rating from the administrator for a particular rating level established pursuant to Section 8670.30.

(3) "OSRO" does not include an owner or operator with an oil spill contingency plan approved by the administrator or an entity that only provides spill management services, or who provides services or equipment that are only ancillary to containment, cleanup, or removal activities.

(r) "Onshore facility" means any facility of any kind which is located entirely on lands not covered by marine waters.

(s) (1) "Owner" or "operator" means any of the following:

(A) In the case of a vessel, any person who owns, has an ownership interest in, operates, charters by demise, or leases, the vessel.

(B) In the case of a marine facility, any person who owns, has an ownership interest in, or operates the marine facility.

(C) Except as provided in subparagraph (D), in the case of any vessel or marine facility, title or control of which was conveyed due to bankruptcy, foreclosure, tax delinquency, abandonment, or similar means to an entity of state or local government, any person who owned, held an ownership interest in, operated, or otherwise controlled activities concerning the vessel or marine facility immediately beforehand.

(D) An entity of the state or local government that acquired ownership or control of a vessel or marine facility, when the entity of the state or

local government has caused or contributed to a spill or discharge of oil into marine waters.

(2) "Owner" or "operator" does not include a person who, without participating in the management of a vessel or marine facility, holds indicia of ownership primarily to protect his or her security interest in the vessel or marine facility.

(3) "Operator" does not include any person who owns the land underlying a marine facility or the facility itself if the person is not involved in the operations of the facility.

(t) "Person" means any individual, trust, firm, joint stock company, or corporation, including, but not limited to, a government corporation, partnership, and association. "Person" also includes any city, county, city and county, district, and the state or any department or agency thereof, and the federal government, or any department or agency thereof, to the extent permitted by law.

(u) "Pipeline" means any pipeline used at any time to transport oil.

(v) "Reasonable worst case spill" means, for the purposes of preparing contingency plans for a nontank vessel, the total volume of the largest fuel tank on the nontank vessel.

(w) "Responsible party" or "party responsible" means any of the following:

(1) The owner or transporter of oil or a person or entity accepting responsibility for the oil.

(2) The owner, operator, or lessee of, or person who charters by demise, any vessel or marine facility, or a person or entity accepting responsibility for the vessel or marine facility.

(x) "Small craft" means any vessel, other than a tank ship or tank barge, that is less than 20 meters in length.

(y) "Small craft refueling dock" means a waterside operation that dispenses only nonpersistent oil in bulk and small amounts of persistent lubrication oil in containers primarily to small craft and meets both of the following criteria:

(1) Has tank storage capacity not exceeding 20,000 gallons in any single storage tank or tank compartment.

(2) Has total usable tank storage capacity not exceeding 75,000 gallons.

(z) "Small marine fueling facility" means either of the following:

(1) A mobile transfer unit.

(2) A fixed facility that is not a marine terminal, that dispenses primarily nonpersistent oil, that may dispense small amounts of persistent oil, primarily to small craft, and that meets all of the following criteria:

(A) Has tank storage capacity greater than 20,000 gallons but not more than 40,000 gallons in any single storage tank or storage tank compartment.

(B) Has total usable tank storage capacity not exceeding 75,000 gallons.

(C) Had an annual throughput volume of over-the-water transfers of oil that did not exceed 3,000,000 gallons during the most recent preceding 12-month period.

(aa) "Spill" or "discharge" means any release of at least one barrel (42 gallons) of oil into marine waters that is not authorized by any federal, state, or local government entity.

(ab) "State Interagency Oil Spill Committee" means the committee established pursuant to Article 3.5 (commencing with Section 8574.1) of Chapter 7.

(ac) "California oil spill contingency plan" means the California oil spill contingency plan prepared pursuant to Article 3.5 (commencing with Section 8574.1) of Chapter 7.

(ad) "Tank barge" means any vessel that carries oil in commercial quantities as cargo but is not equipped with a means of self-propulsion.

(ae) "Tank ship" means any self-propelled vessel that is constructed or adapted for the carriage of oil in bulk or in commercial quantities as cargo.

(af) "Tank vessel" means a tank ship or tank barge.

(ag) "Vessel" means any watercraft or ship of any kind, including every structure adapted to be navigated from place to place for the transportation of merchandise or persons.

(ah) "Vessel carrying oil as secondary cargo" means any vessel that does not carry oil as a primary cargo, but does carry oil in bulk as cargo or cargo residue.

SEC. 4. Section 8670.29 of the Government Code is amended to read:

8670.29. (a) In accordance with the rules, regulations, and policies established by the administrator pursuant to Section 8670.28, every owner or operator of a marine facility, small marine fueling facility or mobile transfer unit, prior to operating in the marine waters of the state or where an oil spill could impact marine waters; and every owner or operator of a tank vessel, nontank vessel or vessel carrying oil as secondary cargo before operating in the marine waters of the state, shall prepare and implement an oil spill contingency plan that has been submitted to, and approved by, the administrator pursuant to Section 8670.31. Each oil spill contingency plan shall ensure the undertaking of prompt and adequate response and removal action in case of an oil spill,

shall be consistent with the California oil spill contingency plan, and shall not conflict with the National Contingency Plan.

(b) Each oil spill contingency plan shall, at a minimum, meet all of the following requirements:

(1) Be a written document, reviewed for feasibility and executability, and signed by the owner or operator, or their designee.

(2) Provide for the use of an incident command system to be used during a spill.

(3) Provide procedures for reporting oil spills to local, state, and federal agencies, and include a list of contacts to call in the event of a drill, threatened spill, or spill.

(4) Describe the communication plans to be used during a spill.

(5) Describe the strategies for the protection of environmentally sensitive areas.

(6) Identify at least one rated OSRO for each rating level established pursuant to Section 8670.30. Each identified rated OSRO shall be directly responsible by contract, agreement, or other approved means to provide oil spill response activities pursuant to the oil spill contingency plan. A rated OSRO may provide oil spill response activities individually, or in combination with another rated OSRO, for a particular owner or operator.

(7) Identify a qualified individual.

(8) Provide the name, address, telephone, and facsimile numbers for an agent for service of process, located within the state and designated to receive legal documents on behalf of the owner or operator.

(c) An oil spill contingency plan for a vessel shall also include, but is not limited to, all of the following requirements:

(1) Each plan shall be submitted to the administrator at least seven days prior to the vessel entering waters of the state.

(2) Each plan shall provide evidence of compliance with the International Safety Management Code, established by the International Maritime Organization, as applicable.

(3) If the oil spill contingency plan is for a tank vessel, the plan shall include both of the following:

(A) The plan shall specify oil and petroleum cargo capacity.

(B) The plan shall specify the types of oil and petroleum cargo carried.

(4) If the oil spill contingency plan is for a nontank vessel, the plan shall include both of the following:

(A) The plan shall specify the type and total amount of fuel carried.

(B) The plan shall specify the capacity of the largest fuel tank.

(d) An oil spill contingency plan for a marine facility shall also include, but is not limited to, all of the following provisions:

(1) Provisions for site security and control.

(2) Provisions for emergency medical treatment and first aid.

(3) Provisions for safety training, as required by state and federal safety laws for all personnel likely to be engaged in oil spill response.

(4) Provisions detailing site layout and locations of environmentally sensitive areas requiring special protection.

(5) Provisions for vessels that are in the operational control of the facility for loading and unloading.

(6) Provisions for training and drills on elements of the plan at least annually.

(7) Provisions for subjecting all elements of the plan to drills or tests, as specified by the administrator, at least once every three years.

(e) The oil spill contingency plan shall be available to response personnel and to relevant state and federal agencies for inspection and review.

(f) The oil spill contingency plan shall be reviewed periodically and updated as necessary. All updates shall be submitted to the administrator pursuant to this article.

(g) In addition to the regulations adopted pursuant to Section 8670.28, the administrator shall adopt regulations and guidelines to implement this section. The regulations and guidelines shall provide for the best achievable protection of coastal and marine resources. The administrator may establish additional oil spill contingency plan requirements, including, but not limited to, requirements based on the different geographic regions of the state. All regulations and guidelines shall be developed in consultation with the State Interagency Oil Spill Committee and the Oil Spill Technical Advisory Committee.

SEC. 5. Section 8670.47.5 of the Government Code is amended to read:

8670.47.5. The following shall be deposited into the fund:

(a) The fee required pursuant to Section 8670.48.

(b) Any federal funds received to pay for response, containment, abatement, and rehabilitation costs from an oil spill in marine waters.

(c) Any money borrowed by the Treasurer pursuant to Article 7.5 (commencing with Section 8670.53.1) or any draw on the financial security obtained by the Treasurer pursuant to subdivision (o) of Section 8670.48.

(d) Any interest earned on the moneys in the fund.

(e) Any costs recovered from responsible parties pursuant to Section 8670.53 and subdivision (e) of Section 8670.53.1.

SEC. 6. Section 8670.48 of the Government Code is amended to read:

8670.48. (a) (1) A uniform oil spill response fee in an amount not exceeding twenty-five cents ($0.25) for each barrel of petroleum products, as set by the administrator pursuant to subdivision (f), shall

be imposed upon every person owning petroleum products at the time the petroleum products are received at a marine terminal within this state by means of a vessel from a point of origin outside this state. The fee shall be remitted to the State Board of Equalization by the terminal operator on the 25th day of each month based upon the number of barrels of petroleum products received during the preceding month.

(2) Every owner of petroleum products is liable for the fee until it has been paid to the state, except that payment to a marine terminal operator registered under this chapter is sufficient to relieve the owner from further liability for the fee.

(b) Every operator of a pipeline shall also pay a uniform oil spill response fee in an amount not exceeding twenty-five cents ($0.25) for each barrel of petroleum products, as set by the administrator pursuant to subdivision (f), transported into the state by means of a pipeline operating across, under, or through the marine waters of the state. The fee shall be paid on the 25th day of each month based upon the number of barrels of petroleum products so transported into the state during the preceding month.

(c) (1) Every operator of a refinery shall pay a uniform oil spill response fee in an amount not exceeding twenty-five cents ($0.25) for each barrel of crude oil, as set by the administrator pursuant to subdivision (f), received at a refinery within the state. The fee shall be paid on the 25th day of each month based upon the number of barrels of crude oil so received during the preceding month.

(2) The fee shall not be imposed by a refiner, or a person or entity acting as an agent for a refiner, on crude oil produced by an independent crude oil producer as defined in paragraph (3). The board shall not identify a company as exempt from the fee requirements of this section if that company was reorganized, sold, or otherwise modified with the intent of circumventing the requirements of this section.

(3) For purposes of this chapter, "independent crude oil producer" means any person or entity producing crude oil within this state who performs no refining of crude oil into product, and who possesses or owns no retail gasoline marketing facilities.

(d) Every marine terminal operator shall pay a uniform oil spill response fee in an amount not exceeding twenty-five cents ($0.25), in accordance with subdivision (g), for each barrel of crude oil, as set by the administrator pursuant to subdivision (f), that is transported from within this state by means of marine vessel to a destination outside this state.

(e) Every operator of a pipeline shall pay a uniform oil spill response fee in an amount not exceeding twenty-five cents ($0.25), in accordance with subdivision (g), for each barrel of crude oil, as set by the

administrator pursuant to subdivision (f), transported out of the state by pipeline.

(f) (1) The fees required pursuant to this section shall be collected during any period for which the administrator determines that collection is necessary for any of the following reasons:

(A) The amount in the fund is less than or equal to 95 percent of the designated amount specified in subdivision (a) of Section 46012 of the Revenue and Taxation Code.

(B) Additional money is required to pay for the purposes specified in subdivision (k).

(C) The revenue is necessary to repay any draw on a financial security obtained by the Treasurer pursuant to subdivision (o) or any borrowing by the Treasurer pursuant to Article 7.5 (commencing with Section 8670.53.1) including any principal, interest, premium, fees, charges, or costs of any kind incurred in connection with those borrowings or financial security.

(2) The administrator, in consultation with the State Board of Equalization, and with the approval of the Treasurer, may direct the State Board of Equalization to cease collecting the fee when the administrator determines that further collection of the fee is not necessary for the purposes specified in paragraph (1).

(3) The administrator, in consultation with the State Board of Equalization, shall set the amount of the oil spill response fees. The oil spill response fees shall be imposed on all feepayers in the same amount. The administrator shall not set the amount of the fee at less than twenty-five cents ($0.25) for each barrel of petroleum products or crude oil, unless the administrator finds that the assessment of a lesser fee will cause the fund to reach the designated amount specified in subdivision (a) of Section 46012 of the Revenue and Taxation Code within four months. The fee shall not be less than twenty-five cents ($0.25) for each barrel of petroleum products or crude oil if the administrator has drawn upon the financial security obtained by the Treasurer pursuant to subdivision (o) or if the Treasurer has borrowed money pursuant to Article 7.5 (commencing with Section 8670.53.1) and principal, interest, premium, fees, charges, or costs of any kind incurred in connection with those borrowings remain outstanding or unpaid, unless the Treasurer has certified to the administrator that the money in the fund is not necessary for the purposes specified in paragraph (1).

(g) The fees imposed by subdivisions (d) and (e) shall be imposed in any calendar year beginning the month following the month when the total cumulative year-to-date barrels of crude oil transported outside the state by all feepayers by means of vessel or pipeline exceeds 6 percent by volume of the total barrels of crude oil and petroleum products subject

to oil spill response fees under subdivisions (a), (b), and (c) for the prior calendar year.

(h) For purposes of this chapter, "designated amount" means the amounts specified in Section 46012 of the Revenue and Taxation Code.

(i) The administrator, in consultation with the State Board of Equalization and with the approval of the Treasurer, shall authorize refunds of any money collected that is not necessary for the purposes specified in paragraph (1) of subdivision (f). The State Board of Equalization, as directed by the administrator, and in accordance with Section 46653 of the Revenue and Taxation Code, shall refund the excess amount of fees collected to each feepayer who paid the fee to the state, in proportion to the amount that each feepayer paid into the fund during the preceding 12 monthly reporting periods in which there was a fee due, including the month in which the fund exceeded the specified amount. If the total amount of money in the fund exceeds the amount specified in this subdivision by 10 percent or less, refunds need not be ordered by the administrator. Nothing in this section shall require the refund of excess fees as provided in this subdivision more frequently than once each year.

(j) The State Board of Equalization shall collect the fee and adopt regulations implementing the fee collection program. All fees collected pursuant to this section shall be deposited in the Oil Spill Response Trust Fund.

(k) The fee described in this section shall be collected solely for any of the following purposes:

(1) To provide funds to cover promptly the costs of response, containment, and cleanup of oil spills into marine waters, including damage assessment costs, and wildlife rehabilitation as provided in Section 8670.61.5.

(2) To cover response and cleanup costs and other damages suffered by the state or other persons or entities from oil spills into marine waters, which cannot otherwise be compensated by responsible parties or the federal government.

(3) To pay claims for damages pursuant to Section 8670.51.

(4) To pay claims for damages, except for damages described in paragraph (7) of subdivision (h) of Section 8670.56.5, pursuant to Section 8670.51.1.

(5) To pay for the cost of obtaining financial security in the amount specified in subdivision (b) of Section 46012 of the Revenue and Taxation Code, as authorized by subdivision (o).

(6) To pay indemnity and related costs and expenses as authorized by Section 8670.56.6.

(7) To pay principal, interest, premium, if any, and fees, charges, and costs of any kind incurred in connection with moneys drawn by the administrator on the financial security obtained by the Treasurer pursuant to subdivision (o) or borrowed by the Treasurer pursuant to Article 7.5 (commencing with Section 8670.53.1).

(8) To pay for the costs of rescue, medical treatment, rehabilitation, and disposition of oiled wildlife, as incurred by the network of oiled wildlife rescue and rehabilitation stations created pursuant to Section 8670.37.5.

(*l*) (1) The interest that the state earns on the funds deposited into the Oil Spill Response Trust Fund shall be deposited in the fund and shall be used to maintain the fund at the designated amount specified in subdivision (a) of Section 46012 of the Revenue and Taxation Code. Interest earned until July 1, 1998, on funds deposited pursuant to subdivision (a) of Section 46012 of the Revenue and Taxation Code, as determined jointly by the Controller and the Director of Finance, shall be available upon appropriation by the Legislature in the Budget Act to establish, equip, operate, and maintain the network of rescue and rehabilitation stations for oiled wildlife as described in Section 8670.37.5 and to support technology development and research related to oiled wildlife care. Interest earned on the financial security portion of the fund, required to be accessible pursuant to subdivision (b) of Section 46012 of the Revenue and Taxation Code shall not be available for that purpose. If the amount in the fund exceeds that designated amount, the interest not needed to equip, operate, and maintain the network of rescue and rehabilitation stations, or for appropriate technology development and research regarding oiled wildlife care, shall be deposited into the Oil Spill Prevention and Administration Fund, and shall be available for the purposes authorized by Article 6 (commencing with Section 8670.38).

(2) (A) For each fiscal year, consistent with this article, the administrator shall submit, as a proposed appropriation in the Governor's Budget, an amount up to one million five hundred thousand dollars ($1,500,000), of the interest earned on the funds deposited into the Oil Spill Response Trust Fund, for the purpose of equipping, operating, and maintaining the network of oiled wildlife rescue and rehabilitation stations established pursuant to Section 8670.37.5 and for support of technology development and research related to oiled wildlife care. The remaining interest shall be deposited into the Oil Spill Prevention and Administration Fund pursuant to paragraph (1).

(B) The administrator shall report to the Legislature not later than June 30, 2002, on the progress and effectiveness of the network of oiled wildlife rescue and rehabilitation stations established pursuant to Section

8670.37.5, and the adequacy of the Oil Spill Response Trust Fund to meet the purposes for which it was established.

(C) At the administrator's request, the funds made available pursuant to this paragraph may be directly appropriated to a suitable program for wildlife health and rehabilitation within a school of veterinary medicine within this state, provided that an agreement exists, consistent with this chapter, between the administrator and an appropriate representative of the program for carrying out that purpose. The administrator shall attempt to have an agreement in place at all times. The agreement shall ensure that the training of, and the care provided by, the program staff are at levels that are consistent with those standards generally accepted within the veterinary profession.

(D) The funds made available pursuant to this paragraph shall not be considered an offset to any other state funds appropriated to the program, the program's associated school of veterinary medicine, or the program's associated college or university, and the funds shall not be used for any other purpose. If an offset does occur or the funds are used for an unintended purpose, expenditure of any appropriation of funds pursuant to this paragraph may be terminated by the administrator and the administrator may request a reappropriation to accomplish the intended purpose. The administrator shall annually review and approve the proposed uses of any funds made available pursuant to this paragraph.

(m) The Legislature finds and declares that effective response to oil spills requires that the state have available sufficient funds in a response fund. The Legislature further finds and declares that maintenance of that fund is of utmost importance to the state and that the money in the fund shall be used solely for the purposes specified in subdivision (k).

(n) It is the intent of the Legislature, in enacting this section, that the fee shall not be imposed by a refiner, or a person or entity acting as an agent for a refiner, on crude oil produced by an independent crude oil producer.

(o) The Treasurer shall obtain financial security, in the designated amount specified in subdivision (b) of Section 46012 of the Revenue and Taxation Code, in a form which, in the event of an oil spill, may be drawn upon immediately by the administrator upon making the determinations required by paragraph (2) of subdivision (a) of Section 8670.49. The financial security may be obtained in any of the forms described in subdivision (b) of Section 8670.53.3, as determined by the Treasurer.

(p) Nothing in this section limits the authority of the administrator to raise oil spill response fees pursuant to Section 8670.48.5.

SEC. 7. Section 8670.48.5 of the Government Code is amended to read:

8670.48.5. (a) The administrator may raise the fees specified in Section 8670.48 to a maximum of one dollar ($1) per barrel, provided that the fee may only be raised by maximum increments of twenty-five cents ($0.25) not more frequently than once every three months. The administrator shall raise the fee only upon making all of the following findings:

(1) There have been, or are existing, demands for expenditures from the fund for allowable purposes that have severely depleted or exhausted, or will severely deplete or exhaust, the fund.

(2) The Governor has requested the Treasurer to borrow the moneys and the Treasurer finds that the fee is insufficient for the Treasurer to borrow enough money to meet the reasonably anticipated demands on the fund for authorized expenditures, including providing moneys for the costs of response, containment, and cleanup of oil spills, damage assessment costs, wildlife rehabilitation, emergency loans, and damage claims, and to repay those borrowings, or the Treasurer finds that the fee is insufficient to repay and secure existing draws by the administrator on the financial security obtained by the Treasurer pursuant to subdivision (o) of Section 8670.48 or borrowings by the Treasurer pursuant to Article 7.5 (commencing with Section 8670.53.1).

(3) Failure to raise the fee in the amount proposed will result in unmet or unpaid, authorized expenditures or noncompliance with any resolutions or contracts entered into in connection with obtaining the financial security pursuant to subdivision (o) of Section 8670.48 or borrowings by the Treasurer pursuant to Article 7.5 (commencing with Section 8670.53.1).

(b) At least 30 days prior to the day the increased fee shall be effective, the administrator shall inform the Legislature of his or her intent to raise the fee.

(c) Each incremental increase shall be effective until the later of (1) the delivery by the Treasurer of a certificate to the administrator as authorized by subdivision (f) of Section 8670.53.3 or (2) the expiration date established by the administrator not to exceed one year. The increase may be renewed by the administrator before its expiration upon making the findings required by subdivision (a).

(d) It is the intent of the Legislature that the fund shall not be used for any purpose other than those set forth in this chapter.

SEC. 8. Section 8670.49 of the Government Code is amended to read:

8670.49. (a) (1) The administrator may only expend money from the fund to pay for any of the following, subject to the lien established in Section 8670.53.2:

(A) To pay the cost of obtaining financial security as authorized by paragraph (5) of subdivision (k) and subdivision (o) of Section 8670.48.

(B) To pay the principal, interest, premium, if any, and fees, charges, and costs of any kind incurred in connection with moneys drawn by the administrator on the financial security obtained by the Treasurer, or the moneys borrowed by the Treasurer, as authorized by paragraph (7) of subdivision (k) of Section 8670.48.

(C) To pay for the construction, equipping, operation, and maintenance of rescue and rehabilitation facilities, and technology development for oiled wildlife care from interest earned on money deposited in the fund as authorized by subdivision (*l*) of Section 8670.48.

(D) To pay for the costs of rescue, medical treatment, rehabilitation, and disposition of oiled wildlife, as incurred by the network of oiled wildlife rescue and rehabilitation stations pursuant to subdivision (f) of Section 8670.37.5.

(E) To pay for the expansion, in the VTS area, pursuant to Section 445 of the Harbors and Navigation Code, of the vessel traffic service system (VTS system) authorized pursuant to subdivision (f) of Section 8670.21.

(2) If a spill has occurred, the administrator may expend the money in the fund for the purposes identified in paragraphs (1), (2), (3), (4), and (6) of subdivision (k) of Section 8670.48 only upon making the following determinations:

(A) Except as authorized by Section 8670.51.1, a responsible party does not exist or the responsible party is unable or unwilling to provide adequate and timely cleanup and to pay for the damages resulting from the spill. The administrator shall make a reasonable effort to have the party responsible remove the oil or agree to pay for any actions resulting from the spill that may be required by law, provided that the efforts are not detrimental to fish, plant, animal, or bird life in the affected waters. The reasonable effort of the administrator shall include attempting to access the responsible parties' insurance or other proof of financial responsibility.

(B) Sufficient federal oil spill funds are not available or will not be available in an adequate period of time.

(3) Notwithstanding any other provision of this subdivision, the administrator may expend money from the fund for authorized expenditures when a reimbursement procedure is in place to receive reimbursements for those expenditures from federal oil spill funds.

(b) Upon making the determinations specified in paragraph (2) of subdivision (a), the administrator shall immediately make whatever payments are necessary for responding to, containing, or cleaning up, the spill, including any wildlife rehabilitation required by law and

payment of claims pursuant to Sections 8670.51 and 8670.51.1, subject to the lien established by Section 8670.53.2.

SEC. 9. Section 8670.50 of the Government Code is amended to read:

8670.50. (a) Money from the fund may only be expended to cover the costs incurred by the state and local governments and agencies for any of the following:

(1) Responding promptly to, containing, and cleaning up the discharge, if those efforts are any of the following:

(A) Undertaken pursuant to the state and local oil spill contingency plans established under this chapter, and the marine response element of the California oil spill contingency plan established under Article 3.5 (commencing with Section 8574.1) of Chapter 7.

(B) Undertaken consistent with the standardized emergency management system established pursuant to Section 8607.

(C) Undertaken at the direction of the administrator.

(2) Meeting the requirements of Section 8670.61.5, relating to wildlife rehabilitation.

(3) Making the payments authorized by subdivision (k) of Section 8670.48.

(b) In the event of an oil spill, the administrator shall make whatever expenditures are necessary and appropriate from the fund to cover the costs described in subdivision (a), subject to the lien established pursuant to Section 8670.53.2.

SEC. 10. Section 8670.53.1 of the Government Code is amended to read:

8670.53.1. (a) Following an oil spill, the administrator, in consultation with the Treasurer, shall notify the Governor if the administrator determines that it is likely that there will not be sufficient moneys in the fund, including both projected revenues to the fund and the financial security obtained pursuant to subdivision (o) of Section 8670.48, to pay, in a timely manner, the expected costs permitted under this chapter.

(b) Following an oil spill, if the Treasurer has obtained financial security pursuant to subdivision (o) of Section 8670.48 in the form of a loan from the Pooled Money Investment Account, the Treasurer shall notify the Governor if the draws on the financial security will likely create a cashflow problem for the Pooled Money Investment Account that would require the loan to be repaid and replaced by borrowing from another source.

(c) Upon notification pursuant to subdivision (a) or (b), the Governor shall request that the federal government pay the cost for response, containment, cleanup, wildlife rehabilitation, and payment of damages.

If sufficient federal funds are not available within five days, the Governor shall make a written request to the Treasurer to borrow and deposit in the fund the amount necessary, as determined by the administrator, to pay those estimated excess response costs, including costs specified in paragraphs (1), (2), (3), (4), (6), and (8) of subdivision (k) of Section 8670.48, and, if necessary, to repay any draws upon the financial security obtained by the Treasurer pursuant to subdivision (o) of Section 8670.48.

(d) The Governor, the Controller, the Treasurer, and the administrator shall immediately take whatever action is necessary and appropriate to ensure that the state has the ability to borrow the maximum additional amount necessary to carry out this chapter.

(e) The party responsible for the spill shall be liable to the state for all money borrowed by the Treasurer under this chapter, including draws on the financial security obtained pursuant to subdivision (o) of Section 8670.48, for the purpose of responding to the oil spill, including principal, interest, and premium, if any, and all associated fees, costs, and other charges incurred by the state in connection with that borrowing, whether or not all or a portion of the borrowed money has been repaid through the oil spill response fee or by federal funds.

(f) No funds available pursuant to this article may be expended for any activities which result in a net environmental enhancement. It is the intent of the Legislature that borrowed funds be expended solely for oil spill response, containment, cleanup, wildlife rehabilitation, and damages resulting from oil spills.

SEC. 11. Section 8670.53.2 of the Government Code is amended to read:

8670.53.2. Money borrowed pursuant to this chapter, including draws on the financial security obtained pursuant to subdivision (o) of Section 8670.48, shall be expended and repaid pursuant to Sections 8670.48 and 8670.49. So long as any of those borrowings are outstanding, fees and any other moneys in the fund are pledged to the repayment of the borrowings, to the extent provided in a resolution of the Pooled Money Investment Board in connection with a loan from the Pooled Money Investment Account or a resolution of issuance for any other borrowing arranged by the Treasurer. The pledge shall constitute a first lien and security interest, ratably with all other prior or subsequent borrowings unless the Treasurer provides in a resolution of issuance, that any borrowing shall constitute a junior lien, which shall immediately attach on the fees deposited in the fund, and shall be effective, binding, and enforceable against the state and any other person asserting rights therein without need of any physical delivery, recordation, filing, or other action.

SEC. 12. Section 8670.53.3 of the Government Code is amended to read:

8670.53.3. (a) For purposes of this section, the following definitions shall apply:

(1) "Bond" means any bond, note, commercial paper, bond anticipation note, or other evidence of indebtedness that the Treasurer is authorized to issue for purposes of this chapter.

(2) "Standby arrangement" means a line of credit, letter of credit, or other financial arrangement with a financial institution or lending entity that allows for ready access to money.

(b) To provide funds to pay for costs of an oil spill, as set forth in Section 8670.48, in excess of money in the fund as set forth in subdivision (a) of Section 8670.53.1, the Treasurer shall make necessary financial arrangements to obtain the additional money needed to pay those costs, and that borrowing shall be reimbursed or repaid from future deposits into the fund. The Treasurer may also enter any financial arrangement necessary or appropriate to refund any draw by the administrator pursuant to subdivision (o) of Section 8670.48, and that borrowing shall be reimbursed or repaid from future deposits into the fund. The financial arrangements may take the following forms, or any combination thereof:

(1) Establishment of one or more standby arrangements.

(2) Sale of bonds to provide funds for purposes of this chapter, to repay any prior drawings by the Treasurer on a standby arrangement or any drawings by the administrator on the financial security obtained by the Treasurer pursuant to subdivision (o) of Section 8670.48, to repay money borrowed from the Pooled Money Investment Account, or to refund or extend any previously issued bonds.

(3) Borrowing from the Pooled Money Investment Account.

(4) Any other financial arrangement the Treasurer determines to be appropriate and cost effective.

(c) The Treasurer may enter into any financial arrangement authorized in subdivision (b) at any time, or from time to time, on a negotiated or competitive bid basis, as the Treasurer shall determine to be advisable.

(d) (1) The Governor, in any written request to the Treasurer pursuant to subdivision (c) of Section 8670.53.1, shall, to the extent feasible, state both of the following:

(A) The amount of funds needed each month over the period covered by the request.

(B) The estimated income to the fund each month from all sources that will be available to pay or retire any debt service or to pay any other expenses, fees, or costs incurred in connection with obligations issued pursuant to this chapter.

(2) The Governor may submit multiple requests to the Treasurer with respect to the same oil spill, or with respect to different oil spills. On

receipt of a written request pursuant to this section, the Treasurer may draw on a standby arrangement, may use any other financial arrangement, or may issue bonds to provide funds not exceeding the amounts requested.

(e) Upon receipt of a written request for funds from the Governor, the following shall occur:

(1) The Treasurer shall convene a meeting of the Pooled Money Investment Board to obtain the funds through interim borrowing from the Pooled Money Investment Account except that no meeting is required where the request to borrow is for the purpose of repayment of a loan from the Pooled Money Investment Account.

(2) The Treasurer shall ensure that the funds will thereafter be available in accordance with a financing schedule mutually agreeable to the administrator and the Treasurer.

(f) This article does not require the Treasurer to borrow more money than can be repaid from amounts available to the fund for that purpose. The Treasurer shall not be required to consider as available to the fund any future deposits resulting from an increase of the fees specified in Section 8670.48.5 until that increase has actually become effective. Once effective, the administrator shall not retract, reduce, or reject the increase unless the Treasurer certifies to the administrator that the retraction, reduction, or rejection will not diminish the security for, or ability to repay, amounts borrowed under this article or drawn pursuant to subdivision (o) of Section 8670.48. The amount of borrowing that can be repaid from amounts available to the fund for that purpose shall be determined by the Treasurer in his or her sole discretion, giving due consideration to factors concerning security for, marketability of, and repayment of, any financial arrangements or other obligations that the Treasurer elects to make, incur, or issue for the purposes of complying with this chapter.

SEC. 13. Section 8670.53.4 of the Government Code is amended to read:

8670.53.4. (a) With the exception of borrowing from the Pooled Money Investment Account, which shall be on the terms determined by the Pooled Money Investment Board, the entry into or issuance of any financial arrangement pursuant to this article and obtaining the financial security pursuant to subdivision (o) of Section 8670.48, including the issuance of bonds, or other obligations, shall be authorized by a resolution adopted by the Treasurer. Any of these financial arrangements, including bonds or other obligations, (1) may be negotiable, (2) may be payable to order or to the bearer, (3) may be in any denomination, (4) shall be payable not later than 20 years from the date of issuance, (5) may bear interest at a fixed or variable rate or rates to be determined as provided by the resolution and payable as provided therein, (6) may be payable

on a fixed date or upon demand of the holder, (7) may be made subject to the prepayment or redemption at the option of the state or at the option of the holder, and (8) may contain such other terms as the Treasurer may determine to be necessary and appropriate.

(b) In connection with any financial arrangement made or issued by the Treasurer pursuant to this chapter, including the issuance of bonds or other obligations, the Treasurer may obtain or arrange for any insurance, letter of credit, or other credit enhancement or liquidity arrangements as the Treasurer determines to be appropriate and cost effective, and may enter into any contracts or agreements for those arrangements not inconsistent with this chapter.

(c) Proceeds of any borrowing authorized pursuant to this chapter, including from the issuance of any bonds, other obligations, or drawings on any standby arrangement or other financial arrangements, shall be deposited in the fund.

(d) Any bonds or other obligations issued under this chapter may be secured by a trust agreement or indenture by and between the state and a trustee. The trustee may be the Treasurer or a bank or trust company chartered under the laws of this state or of the United States and designated by the Treasurer.

(e) The Treasurer may provide for the issuance and sale or exchange of refunding bonds for the purpose of redeeming, retiring, or purchasing for retirement, outstanding bonds at or before their maturity, if the Treasurer and the administrator determines that refunding is necessary or advisable in order to do either of the following:

(1) To effect a favorable reorganization of the debt structure of the bonds.

(2) To effect a saving in debt service cost, as measured by the present value of that saving.

SEC. 14. Section 8670.53.5 of the Government Code is amended to read:

8670.53.5. Any financial arrangements made or issued pursuant to this article or subdivision (o) of Section 8670.48, including the issuance of bonds or other obligations, and the repayment of any of these obligations, shall be special obligations of the state secured solely by the moneys in the fund. None of these financial arrangements, including bonds or other obligations, shall be or become a lien, charge, or liability against the State of California or against its property or funds except to the extent of the pledges expressly made by this article. Each of these financial arrangements, including bonds or other obligations, shall contain a recital stating that neither the payment of the principal thereof, nor any interest thereon, constitutes a debt, liability, or general obligation of the State of California other than as provided in this article, and neither the

faith and credit nor the taxing power of the state are pledged to the repayment thereof.

SEC. 15. Section 8670.53.7 of the Government Code is amended to read:

8670.53.7. (a) All financial arrangements made or issued pursuant to this article or subdivision (o) of Section 8670.48, including bonds or other obligations, are a legal investment for any of the following:

(1) Trust funds.

(2) Funds of insurers.

(3) Funds of savings and loan associations.

(4) Funds of banks.

(5) Funds of state agencies, cities, counties, cities and counties, or other public agencies or corporations.

(b) All financial arrangements, made or issued pursuant to this article or subdivision (o) of Section 8670.48, including bonds or other obligations, are acceptable and may be used as security for the faithful performance of any public or private trust or obligation or for the performance of any act, including the use of notes by banks as security for deposits of funds of the state and its agencies, or of any city, county, city and county, or other public agency or corporation.

SEC. 16. Section 8670.53.8 of the Government Code is amended to read:

8670.53.8. Notwithstanding Section 13340, there is hereby appropriated from the fund, without regard to fiscal years, any and all moneys necessary to pay principal, interest, premium, if any, and fees, costs, or charges of any kind incurred by the state under or in connection with any standby arrangement, or other financial arrangement, including bonds or other obligations, made or issued pursuant to this article and pursuant to subdivision (o) of Section 8670.48, or any rebate penalty, or other payment necessary to maintain the federal tax-exempt status of that financial arrangement, including bonds or other obligations. The Treasurer shall advise the administrator and the Controller of amounts necessary to pay the principal, interest, premiums, fees, costs, or charges on any of those arrangements or obligations made or issued pursuant to this article and subdivision (o) of Section 8670.48, and those amounts shall not be available for expenditure for other purposes.

SEC. 17. Section 8670.53.95 of the Government Code is amended to read:

8670.53.95. Section 10295 and Sections 10336 to 10381, inclusive, of the Public Contract Code shall not apply to agreements entered into by the Treasurer in connection with making or issuing of any financial arrangements, including the issuance of bonds or other obligations, authorized by this article or by subdivision (o) of Section 8670.48.

SEC. 18. Section 8670.56.7 of the Government Code is repealed.

SEC. 19. Section 46054 of the Revenue and Taxation Code is amended to read:

46054. (a) The board shall notify the feepayers that, as of the first of the month following the notification, no fee shall be imposed whenever the administrator, in consultation with the board, and with the approval of the Treasurer, determines that the amount in the Oil Spill Response Trust Fund, collected pursuant to Section 46052, is equal to the amount specified in subdivision (a) of Section 46012, and the collection of the fee is not required for any of the following purposes:

(1) The purposes specified in subdivision (k) of Section 8670.48 of the Government Code.

(2) To repay any draw on a financial security obtained by the Treasurer pursuant to subdivision (o) of Section 8670.48 of the Government Code, including any principal, interest, premium, fees, charges, or costs of any kind incurred in connection with that financial security.

(3) To repay any borrowing by the Treasurer pursuant to Article 7.5 (commencing with Section 8670.53.1) of Chapter 7.4 of Division 1 of Title 2 of the Government Code, including any principal, interest, premium, fees, charges, or costs of any kind incurred in connection with that borrowing.

(b) Whenever the fee has ceased to be imposed in accordance with subdivision (a), the administrator may direct the board to resume collection of the fee, if the administrator, in consultation with the board, pursuant to paragraph (1) of subdivision (f) of Section 8670.48 of the Government Code, makes one of the following determinations:

(1) The amount in the Oil Spill Response Trust Fund is less than or equal to 95 percent of the amount specified in subdivision (a) of Section 46012.

(2) Additional money is required for the purposes specified in subdivision (k) of Section 8670.48 of the Government Code.

(3) That revenue is necessary to repay any draw on a financial security obtained by the Treasurer pursuant to subdivision (o) of Section 8670.48 of the Government Code or any borrowing by the Treasurer pursuant to Article 7.5 (commencing with Section 8670.53.1) of the Government Code, including any principal, interest, premium, fees, charges, or costs of any kind incurred in connection with those borrowings or that financial security.

(c) If the administrator directs the board to resume collection of the fee, the board shall notify the feepayers, upon the first of the month following the notification, that the fee will be imposed.

SEC. 20. Section 46653 of the Revenue and Taxation Code is amended to read:

46653. (a) Except as provided in subdivision (c), the administrator shall direct the board to provide refunds of the excess money whenever the administrator makes both of the following determinations:

(1) The administrator determines, pursuant to subdivision (i) of Section 8670.48 of the Government Code, that the total amount in the Oil Spill Response Trust Fund, collected pursuant to Section 46052, exceeds the total of the amount specified in subdivision (a) of Section 46012.

(2) The administrator determines additional collection is not necessary to provide for the purposes specified in paragraphs (1) to (6), inclusive, and paragraph (8), of subdivision (k) of Section 8670.48 of the Government Code or to repay any draw upon the financial security obtained by the Treasurer pursuant to subdivision (o) of Section 8670.48 of the Government Code or money borrowed pursuant to Article 7.5 (commencing with Section 8670.53.1) of Chapter 7.4 of Division 1 of Title 2 of the Government Code, including principal, interest, premium, fees, charges, or costs of any kind incurred in connection with those borrowings or that financial security.

(b) The board, as directed by the administrator pursuant to subdivision (a), shall refund the excess money in that fund to each person who paid the fee to the state in proportion to the amount that person paid into the fund during the preceding 12 monthly reporting periods in which there was a fee due, including the month in which the fund exceeded the amount specified in subdivision (a) of Section 46012.

(c) If the amount of money in the fund exceeds the amount specified in this section by 10 percent or less, the administrator is not required to order refunds pursuant to this section.

(d) Nothing in this section shall require the refund of excess fees more frequently than once each year.

SEC. 21. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to resolve existing statutory ambiguities and to ensure that the financial security obtained by the Treasurer for an oil spill response is valid obligation secured by the state's authority to issue bonds, and that the funds necessary to respond to an oil spill are available, thereby protecting public health and safety and the environment, it is necessary that this act take effect immediately.

CHAPTER 374

An act to amend Section 35650 of the Public Resources Code, relating to ocean resources.

[Approved by Governor October 10, 2007. Filed with Secretary of State October 10, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 35650 of the Public Resources Code is amended to read:

35650. (a) The California Ocean Protection Trust Fund is established in the State Treasury.

(b) Moneys deposited in the fund may be expended, upon appropriation by the Legislature, for both of the following:

(1) Projects and activities authorized by the council consistent with Chapter 3 (commencing with Section 35600).

(2) Upon authorization by the council, for grants or loans to public agencies, nonprofit corporations, or private entities for, or direct expenditures on, projects or activities that do one or more of the following:

(A) Eliminate or reduce threats to coastal and ocean ecosystems, habitats, and species.

(B) Improve the management of fisheries through grants or loans for the development and implementation of fishery management plans pursuant to Part 1.7 (commencing with Section 7050) of Division 6 of the Fish and Game Code, a part of the Marine Life Management Act of 1998, that promote long-term stewardship and collaboration with fishery participants to develop strategies that increase environmental and economic sustainability. Eligible projects and activities include, but are not limited to, innovative community-based or cooperative management and allocation strategies that create incentives for ecosystem improvement. Eligible expenditures include, but are not limited to, costs related to activities identified in subdivisions (a), (b), and (d) of Section 7075 of the Fish and Game Code, fishery research, monitoring, data collection and analysis to support adaptive management, and other costs related to the development and implementation of a fishery management plan developed pursuant to this subparagraph.

(C) Foster sustainable fisheries, including grants or loans for one or more of the following:

(i) Projects that encourage the development and use of more selective fishing gear.

(ii) The design of community-based or cooperative management mechanisms that promote long-term stewardship and collaboration with fishery participants to develop strategies that increase environmental and economic sustainability.

(iii) Collaborative research and demonstration projects between fishery participants, scientists, and other interested parties.

(iv) Promotion of value-added wild fisheries to offset economic losses attributable to reduced fishing opportunities.

(v) The creation of revolving loan programs for the purpose of implementing sustainable fishery projects.

(D) Improve coastal water quality.

(E) Allow for increased public access to, and enjoyment of, ocean and coastal resources, consistent with sustainable, long-term protection and conservation of those resources.

(F) Improve management, conservation, and protection of coastal waters and ocean ecosystems.

(G) Provide monitoring and scientific data to improve state efforts to protect and conserve ocean resources.

(H) Protect, conserve, and restore coastal waters and ocean ecosystems, including any of the following:

(i) Acquisition, installation, and initiation of monitoring and enforcement systems.

(ii) Acquisition from willing sellers of vessels, equipment, licenses, harvest rights, permits, and other rights and property, to reduce threats to ocean ecosystems and resources.

(I) Address coastal water contamination from biological pathogens, including collaborative projects and activities to identify the sources of pathogens and develop detection systems and treatment methods.

(c) Grants or loans may be made to a private entity pursuant to this section only for projects or activities that further public purposes consistent with Sections 35510 and 35515.

(d) Consistent with the purposes specified in Section 35515, and in furtherance of the findings in Sections 7059 and 7060 of the Fish and Game Code, the council, in authorizing grants or loans for projects or expenditures pursuant to this section, shall promote coordination of state programs and activities that protect and conserve ocean resources to avoid redundancy and conflicts to ensure that the state's programs and activities are complementary.

CHAPTER 375

An act to amend Sections 14012 of, and to add Section 65080.1 to, the Government Code, and to amend Section 31408 of the Public Resources Code, relating to coastal resources.

[Approved by Governor October 10, 2007. Filed with Secretary of State October 10, 2007.]

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) The California Coastal Act of 1976 required local jurisdictions to identify an alignment for the California Coastal Trail in their local coastal plans to be, ideally, continuous and located along the shoreline.

(b) In 1999, the Governor designated the California Coastal Trail as California's Millennium Legacy Trail.

(c) In 1999, the White House Millennium Trail Council encouraged federal agencies to assist in the development of the California Coastal Trail.

(d) Assembly Concurrent Resolution 20 of the 2001–02 Regular Session declared the California Coastal Trail to be an official state trail and urged the State Coastal Conservancy and the California Coastal Commission to work collaboratively to complete the trail.

(e) Senate Bill 908 of the 2001–02 Regular Session required the State Coastal Conservancy, in consultation with the Department of Parks and Recreation and the California Coastal Commission, to coordinate the development of the California Coastal Trail.

(f) Senate Bill 908 authorized the State Coastal Conservancy to award grants and provide assistance to public agencies and nonprofit organizations to establish and expand inland trail systems that may be linked to the California Coastal Trail. Division 21 (commencing with Section 31000) of the Public Resources Code expresses the Legislature's intent that the State Coastal Conservancy have a principal role in the implementation of a system of public accessways to and along the state's coastline, and provides authority to the State Coastal Conservancy to award grants to public agencies and nonprofit organizations to acquire land, or any interest therein, or to develop, operate, or manage lands for public access purposes to and along the coast, on terms and conditions as the State Coastal Conservancy specifies.

(g) Senate Bill 908 directed state entities with property interests or regulatory authority in coastal areas, to the extent feasible, and consistent with their individual mandate, to cooperate with the State Coastal

Conservancy with respect to planning and making lands available for completion of the California Coastal Trail.

(h) Senate Bill 908 directed that the California Coastal Trail be developed in a manner that demonstrates respect for property rights and nearby residential uses, and consideration for the protection of the privacy of adjacent property owners.

SEC. 2. Section 14012 of the Government Code is amended to read:

14012. (a) The director may sell or lease excess right-of-way parcels to municipalities or other local agencies for public purposes, and may accept as all or part of the consideration for such sale or lease any substantial benefits the state will derive from the municipality or other local agency's undertaking maintenance or landscaping costs that would otherwise be the obligation of the state.

(b) For the purposes of Section 9 of Article 19 of the California Constitution, the department shall notify, on a quarterly basis, the State Coastal Conservancy, the Department of Parks and Recreation, the Wildlife Conservation Board, and the Department of Fish and Game of excess property.

SEC. 3. Section 65080.1 is added to the Government Code, to read:

65080.1. Each transportation planning agency designated under Section 29532 or 29532.1 whose jurisdiction includes a portion of the California Coastal Trail, or property designated for the trail, that is located within the coastal zone, as defined in Section 30103 of the Public Resources Code, shall coordinate with the State Coastal Conservancy, the California Coastal Commission, and the Department of Transportation regarding development of the California Coastal Trail, and each transportation planning agency shall include provisions for the California Coastal Trail in its regional plan, under Section 65080.

SEC. 4. Section 31408 of the Public Resources Code is amended to read:

31408. (a) The conservancy shall, in consultation with the Department of Parks and Recreation, the California Coastal Commission, and the California Department of Transportation, coordinate the development of the California Coastal Trail.

(b) To the extent feasible, and consistent with their individual mandates, each agency, board, department, or commission of the state with property interests or regulatory authority in coastal areas shall cooperate with the conservancy with respect to planning and making lands available for completion of the trail, including constructing trail links, placing signs and managing the trail.

SEC. 5. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7

(commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

CHAPTER 376

An act to amend Sections 3502, 3502.1, 3516, and 3516.5 of, and to repeal Section 3516.1 of, the Business and Professions Code, and to add Section 14132.966 to the Welfare and Institutions Code, relating to physician assistants.

[Approved by Governor October 10, 2007. Filed with Secretary of State October 10, 2007.]

The people of the State of California do enact as follows:

SECTION 1. This act shall be known as the California Physician Team Practice Improvement Act.

SEC. 2. Section 3502 of the Business and Professions Code is amended to read:

3502. (a) Notwithstanding any other provision of law, a physician assistant may perform those medical services as set forth by the regulations of the board when the services are rendered under the supervision of a licensed physician and surgeon who is not subject to a disciplinary condition imposed by the board prohibiting that supervision or prohibiting the employment of a physician assistant.

(b) Notwithstanding any other provision of law, a physician assistant performing medical services under the supervision of a physician and surgeon may assist a doctor of podiatric medicine who is a partner, shareholder, or employee in the same medical group as the supervising physician and surgeon. A physician assistant who assists a doctor of podiatric medicine pursuant to this subdivision shall do so only according to patient-specific orders from the supervising physician and surgeon.

The supervising physician and surgeon shall be physically available to the physician assistant for consultation when such assistance is rendered. A physician assistant assisting a doctor of podiatric medicine shall be limited to performing those duties included within the scope of practice of a doctor of podiatric medicine.

(c) (1) A physician assistant and his or her supervising physician and surgeon shall establish written guidelines for the adequate supervision of the physician assistant. This requirement may be satisfied by the supervising physician and surgeon adopting protocols for some or all of the tasks performed by the physician assistant. The protocols adopted

pursuant to this subdivision shall comply with the following requirements:

(A) A protocol governing diagnosis and management shall, at a minimum, include the presence or absence of symptoms, signs, and other data necessary to establish a diagnosis or assessment, any appropriate tests or studies to order, drugs to recommend to the patient, and education to be provided to the patient.

(B) A protocol governing procedures shall set forth the information to be provided to the patient, the nature of the consent to be obtained from the patient, the preparation and technique of the procedure, and the followup care.

(C) Protocols shall be developed by the supervising physician and surgeon or adopted from, or referenced to, texts or other sources.

(D) Protocols shall be signed and dated by the supervising physician and surgeon and the physician assistant.

(2) The supervising physician and surgeon shall review, countersign, and date a sample consisting of, at a minimum, 5 percent of the medical records of patients treated by the physician assistant functioning under the protocols within 30 days of the date of treatment by the physician assistant. The physician and surgeon shall select for review those cases that by diagnosis, problem, treatment, or procedure represent, in his or her judgment, the most significant risk to the patient.

(3) Notwithstanding any other provision of law, the board or committee may establish other alternative mechanisms for the adequate supervision of the physician assistant.

(d) No medical services may be performed under this chapter in any of the following areas:

(1) The determination of the refractive states of the human eye, or the fitting or adaptation of lenses or frames for the aid thereof.

(2) The prescribing or directing the use of, or using, any optical device in connection with ocular exercises, visual training, or orthoptics.

(3) The prescribing of contact lenses for, or the fitting or adaptation of contact lenses to, the human eye.

(4) The practice of dentistry or dental hygiene or the work of a dental auxiliary as defined in Chapter 4 (commencing with Section 1600).

(e) This section shall not be construed in a manner that shall preclude the performance of routine visual screening as defined in Section 3501.

SEC. 3. Section 3502.1 of the Business and Professions Code is amended to read:

3502.1. (a) In addition to the services authorized in the regulations adopted by the board, and except as prohibited by Section 3502, while under the supervision of a licensed physician and surgeon or physicians and surgeons authorized by law to supervise a physician assistant, a

physician assistant may administer or provide medication to a patient, or transmit orally, or in writing on a patient's record or in a drug order, an order to a person who may lawfully furnish the medication or medical device pursuant to subdivisions (c) and (d).

(1) A supervising physician and surgeon who delegates authority to issue a drug order to a physician assistant may limit this authority by specifying the manner in which the physician assistant may issue delegated prescriptions.

(2) Each supervising physician and surgeon who delegates the authority to issue a drug order to a physician assistant shall first prepare and adopt, or adopt, a written, practice specific, formulary and protocols that specify all criteria for the use of a particular drug or device, and any contraindications for the selection. Protocols for Schedule II controlled substances shall address the diagnosis of illness, injury, or condition for which the Schedule II controlled substance is being administered, provided, or issued. The drugs listed in the protocols shall constitute the formulary and shall include only drugs that are appropriate for use in the type of practice engaged in by the supervising physician and surgeon. When issuing a drug order, the physician assistant is acting on behalf of and as an agent for a supervising physician and surgeon.

(b) "Drug order" for purposes of this section means an order for medication that is dispensed to or for a patient, issued and signed by a physician assistant acting as an individual practitioner within the meaning of Section 1306.02 of Title 21 of the Code of Federal Regulations. Notwithstanding any other provision of law, (1) a drug order issued pursuant to this section shall be treated in the same manner as a prescription or order of the supervising physician, (2) all references to "prescription" in this code and the Health and Safety Code shall include drug orders issued by physician assistants pursuant to authority granted by their supervising physicians and surgeons, and (3) the signature of a physician assistant on a drug order shall be deemed to be the signature of a prescriber for purposes of this code and the Health and Safety Code.

(c) A drug order for any patient cared for by the physician assistant that is issued by the physician assistant shall either be based on the protocols described in subdivision (a) or shall be approved by the supervising physician and surgeon before it is filled or carried out.

(1) A physician assistant shall not administer or provide a drug or issue a drug order for a drug other than for a drug listed in the formulary without advance approval from a supervising physician and surgeon for the particular patient. At the direction and under the supervision of a physician and surgeon, a physician assistant may hand to a patient of the supervising physician and surgeon a properly labeled prescription

drug prepackaged by a physician and surgeon, manufacturer as defined in the Pharmacy Law, or a pharmacist.

(2) A physician assistant may not administer, provide, or issue a drug order to a patient for Schedule II through Schedule V controlled substances without advance approval by a supervising physician and surgeon for that particular patient unless the physician assistant has completed an education course that covers controlled substances and that meets standards, including pharmacological content, approved by the committee. The education course shall be provided either by an accredited continuing education provider or by an approved physician assistant training program. If the physician assistant will administer, provide, or issue a drug order for Schedule II controlled substances, the course shall contain a minimum of three hours exclusively on Schedule II controlled substances. Completion of the requirements set forth in this paragraph shall be verified and documented in the manner established by the committee prior to the physician assistant's use of a registration number issued by the United States Drug Enforcement Administration to the physician assistant to administer, provide, or issue a drug order to a patient for a controlled substance without advance approval by a supervising physician and surgeon for that particular patient.

(3) Any drug order issued by a physician assistant shall be subject to a reasonable quantitative limitation consistent with customary medical practice in the supervising physician and surgeon's practice.

(d) A written drug order issued pursuant to subdivision (a), except a written drug order in a patient's medical record in a health facility or medical practice, shall contain the printed name, address, and phone number of the supervising physician and surgeon, the printed or stamped name and license number of the physician assistant, and the signature of the physician assistant. Further, a written drug order for a controlled substance, except a written drug order in a patient's medical record in a health facility or a medical practice, shall include the federal controlled substances registration number of the physician assistant and shall otherwise comply with the provisions of Section 11162.1 of the Health and Safety Code. Except as otherwise required for written drug orders for controlled substances under Section 11162.1 of the Health and Safety Code, the requirements of this subdivision may be met through stamping or otherwise imprinting on the supervising physician and surgeon's prescription blank to show the name, license number, and if applicable, the federal controlled substances number of the physician assistant, and shall be signed by the physician assistant. When using a drug order, the physician assistant is acting on behalf of and as the agent of a supervising physician and surgeon.

(e) The medical record of any patient cared for by a physician assistant for whom the physician assistant's Schedule II drug order has been issued or carried out shall be reviewed and countersigned and dated by a supervising physician and surgeon within seven days.

(f) All physician assistants who are authorized by their supervising physicians to issue drug orders for controlled substances shall register with the United States Drug Enforcement Administration (DEA).

(g) The committee shall consult with the Medical Board of California and report during its sunset review required by Division 1.2 (commencing with Section 473) the impacts of exempting Schedule III and Schedule IV drug orders from the requirement for a physician and surgeon to review and countersign the affected medical record of a patient.

SEC. 4. Section 3516 of the Business and Professions Code is amended to read:

3516. (a) Notwithstanding any other provision of law, a physician assistant licensed by the committee shall be eligible for employment or supervision by any physician and surgeon who is not subject to a disciplinary condition imposed by the board prohibiting that employment or supervision.

(b) No physician and surgeon shall supervise more than four physician assistants at any one time, except as provided in Section 3502.5.

(c) The board may restrict a physician and surgeon to supervising specific types of physician assistants including, but not limited to, restricting a physician and surgeon from supervising physician assistants outside of the field of specialty of the physician and surgeon.

SEC. 5. Section 3516.1 of the Business and Professions Code is repealed.

SEC. 6. Section 3516.5 of the Business and Professions Code is amended to read:

3516.5. (a) Notwithstanding any other provision of law and in accordance with regulations established by the board, the director of emergency care services in a hospital with an approved program for the training of emergency care physician assistants, may apply to the board for authorization under which the director may grant approval for emergency care physicians on the staff of the hospital to supervise emergency care physician assistants.

(b) The application shall encompass all supervising physicians employed in that service.

(c) Nothing in this section shall be construed to authorize any one emergency care physician while on duty to supervise more than four physician assistants at any one time.

(d) A violation of this section by the director of emergency care services in a hospital with an approved program for the training of

emergency care physician assistants constitutes unprofessional conduct within the meaning of Chapter 5 (commencing with Section 2000).

(e) A violation of this section shall be grounds for suspension of the approval of the director or disciplinary action against the director or suspension of the approved program under Section 3527.

SEC. 7. Section 14132.966 is added to the Welfare and Institutions Code, to read:

14132.966. (a) Services provided by a physician assistant are a covered benefit under this chapter to the extent authorized by federal law and subject to utilization controls.

(b) Subject to subdivision (a), all services performed by a physician assistant within his or her scope of practice that would be a covered benefit if performed by a physician and surgeon shall be a covered benefit under this chapter.

(c) The department shall not impose chart review, countersignature, or other conditions of coverage or payment on a physician and surgeon supervising physician assistants that are more stringent than requirements imposed by Chapter 7.7 (commencing with Section 3500) of Division 2 of the Business and Professions Code or regulations of the Medical Board of California promulgated under that chapter.

CHAPTER 377

An act to amend, repeal, and add Section 40207 of, and to add and repeal Article 3.5 (commencing with Section 40240) of Chapter 1 of Division 17 of, the Vehicle Code, relating to vehicles.

[Approved by Governor October 10, 2007. Filed with Secretary of State October 10, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 40207 of the Vehicle Code is amended to read:

40207. (a) The notice of delinquent parking violation shall contain the information specified in subdivision (a) of Section 40202 or subdivision (a) of Section 40241, and Section 40203, and, additionally shall contain a notice to the registered owner that, unless the registered owner pays the parking penalty or contests the citation within 21 calendar days from the date of issuance of the citation or 14 calendar days after the mailing of the notice of delinquent parking violation or completes and files an affidavit of nonliability which complies with Section 40208 or 40209, the renewal of the vehicle registration shall be contingent upon

compliance with the notice of delinquent parking violation. If the registered owner, by appearance or by mail, makes payment to the processing agency within 21 calendar days from the date of issuance of the citation or 14 calendar days after the mailing of the notice of delinquent parking violation, the parking penalty shall consist solely of the amount of the original penalty. Additional fees, assessments, or other charges shall not be added.

(b) This section shall remain in effect only until January 1, 2012, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2012, deletes or extends that date.

SEC. 2. Section 40207 is added to the Vehicle Code, to read:

40207. (a) The notice of delinquent parking violation shall contain the information specified in subdivision (a) of Section 40202 and Section 40203, and, additionally shall contain a notice to the registered owner that, unless the registered owner pays the parking penalty or contests the citation within 21 calendar days from the date of issuance of the citation or 14 calendar days after the mailing of the notice of delinquent parking violation or completes and files an affidavit of nonliability which complies with Section 40208 or 40209, the renewal of the vehicle registration shall be contingent upon compliance with the notice of delinquent parking violation. If the registered owner, by appearance or by mail, makes payment to the processing agency within 21 calendar days from the date of issuance of the citation or 14 calendar days after the mailing of the notice of delinquent parking violation, the parking penalty shall consist solely of the amount of the original penalty. Additional fees, assessments, or other charges shall not be added.

(b) This section shall become operative on January 1, 2012.

SEC. 3. Article 3.5 (commencing with Section 40240) is added to Chapter 1 of Division 17 of the Vehicle Code, to read:

Article 3.5. Procedure on Video Imaging of Parking Violations Occurring in Transit-Only Lanes

40240. (a) The City and County of San Francisco may install automated forward facing parking control devices on city-owned public transit vehicles, as defined by Section 99211 of the Public Utilities Code for the purpose of video imaging of parking violations occurring in transit-only traffic lanes. Citations shall only be issued for violation captured during the posted hours of operation for a transit-only traffic lane. The devices shall be angled and focused so as to capture video images of parking violations and not unnecessarily capture identifying images of other drivers, vehicles, and pedestrians.

(b) Prior to issuing notices of parking violations pursuant to subdivision (a) of Section 40241, the City and County of San Francisco shall commence a program to issue only warning notices for 30 days. The City and County of San Francisco shall also make a public announcement of the program at least 30 days prior to commencement of issuing notices of parking violations.

(c) A designated employee of the City and County of San Francisco, who is qualified by the city and county to issue parking citations, shall review video image recordings for the purpose of determining whether a parking violation occurred in a transit-only traffic lane. A violation of a statute, regulation, or ordinance governing vehicle parking under this code, under a federal or state statute or regulation, or under an ordinance enacted by the City and County of San Francisco occurring in a transit-only traffic lane observed by the designated employee in the recordings is subject to a civil penalty.

(d) The registered owner shall be permitted to review the video image evidence of the alleged violation during normal business hours at no cost.

(e) (1) Except as it may be included in court records described in Section 68152 of the Government Code, or as provided in paragraph (2), the video image evidence may be retained for up to six months from the date the information was first obtained, or 60 days after final disposition of the citation, whichever date is later, after which time the information shall be destroyed.

(2) Notwithstanding Section 26202.6 of the Government Code, video image evidence from forward facing automated enforcement devices that does not contain evidence of a parking violation occurring in a transit-only traffic lane shall be destroyed within 15 days after the information was first obtained.

(f) Notwithstanding Section 6253 of the Government Code, or any other provision of law, the video image records are confidential. Public agencies shall use and allow access to these records only for the purposes authorized by this article.

(g) For the purposes of this article, "local agency" means the City and County of San Francisco.

(h) For the purposes of this article, "transit-only traffic lane" means any of the designated transit-only lanes that were designated on or before January 1, 2008, on Beach Street, Bush Street, Clay Street, First Street, Fourth Street, Fremont Street, Geary Boulevard, Jefferson Street, Jones Street, Mission Street, Market Street, O'Farrell Street, Post Street, Potrero Street, Sacramento Street, Sansome Street, Stockton Street, Sutter Street, and Third Street.

(i) Video images captured pursuant to this article shall not be transmitted wirelessly.

40241. (a) A designated employee of the local agency shall issue a notice of a parking violation to the registered owner of a vehicle within 15 calendar days of the date of the violation. The notice of violation shall set forth the violation of a statute, regulation, or ordinance governing vehicle parking under this code, under a federal or state statute or regulation, or under an ordinance enacted by the City and County of San Francisco occurring in a transit-only traffic lane, a statement indicating that payment is required within 21 calendar days from the date of citation issuance, and the procedure for the registered owner, lessee, or rentee to deposit the parking penalty or contest the citation pursuant to Section 40215. The notice of a parking violation shall also set forth the date, time, and location of the violation, the vehicle license number, registration expiration date if visible, the color of the vehicle, and, if possible, the make of the vehicle. The notice of parking violation, or copy of the notice, shall be considered a record kept in the ordinary course of business of the City and County of San Francisco and shall be prima facie evidence of the facts contained in the notice. The City and County of San Francisco shall send information regarding the process for requesting review of the video image evidence along with the notice of parking violation.

(b) The notice of parking violation shall be served by depositing the notice in the United States mail to the registered owner's last known address listed with the Department of Motor Vehicles. Proof of mailing demonstrating that the notice of parking violation was mailed to that address shall be maintained by the local agency. If the registered owner, by appearance or by mail, makes payment to the processing agency or contests the violation within either 21 calendar days from the date of mailing of the citation, or 14 calendar days after the mailing of the notice of delinquent parking violation, the parking penalty shall consist solely of the amount of the original penalty.

(c) If, within 21 days after the notice of parking violation is issued, the local agency determines that, in the interest of justice, the notice of parking violation should be canceled, the local agency shall cancel the notice of parking violation pursuant to subdivision (a) of Section 40215. The reason for the cancellation shall be set forth in writing.

(d) Following an initial review by the local agency, and an administrative hearing, pursuant to Section 40215, a contestant may seek court review by filing an appeal pursuant to Section 40230.

(e) The City and County of San Francisco may contract with a private vendor for the processing of notices of parking violations and notices

of delinquent violations. The City and County of San Francisco shall maintain overall control and supervision of the program.

40242. Notwithstanding Section 7550.5 of the Government Code, if the City and County of San Francisco implements a parking enforcement pilot program pursuant to this article, no later than March 1, 2011, the City and County of San Francisco shall provide to the transportation committees of the Legislature an evaluation of the pilot program's effectiveness.

40243. This article shall remain in effect only until January 1, 2012, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2012, deletes or extends that date.

SEC. 4. The Legislature finds and declares that the public interest would be served through the use of automated forward facing parking control devices as a reliable and cost-effective means of enforcing traffic and parking laws, reducing traffic congestion, and improving the flow of city-owned public transit vehicles and street sweepers that can be significantly impeded by double-parked vehicles, without significantly impinging on the privacy rights of individuals depicted in the video image records.

CHAPTER 378

An act to add Section 120392.9 to the Health and Safety Code, relating to immunizations.

[Approved by Governor October 10, 2007. Filed with Secretary of State October 10, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 120392.9 is added to the Health and Safety Code, to read:

120392.9. Pursuant to its standardized procedures and if it has the vaccine in its possession, each year, commencing October 1 to the following April 1, inclusive, a general acute care hospital, as defined in subdivision (a) of Section 1250, shall offer, prior to discharge, immunizations for influenza and pneumococcal disease to inpatients, aged 65 years or older, based upon the adult immunization recommendations of the Advisory Committee on Immunization Practices of the federal Centers for Disease Control and Prevention, and the recommendations of appropriate entities for the prevention, detection,

and control of influenza outbreaks in California general acute care hospitals.

CHAPTER 379

An act to amend Sections 8698, 8698.1, and 8698.5 of, to add Section 8698.6 to, and to repeal Chapter 14.5 (commencing with Section 8698) of Division 3 of, the Business and Professions Code, relating to pests.

[Approved by Governor October 10, 2007. Filed with Secretary of State October 10, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 8698 of the Business and Professions Code is amended to read:

8698. The Director of the Department of Pesticide Regulation shall be designated by the board as its agent for the purposes of carrying out Section 8698.1. The Los Angeles County Agricultural Commissioner, the Orange County Agricultural Commissioner, or the Santa Clara County Agricultural Commissioner may each contract with the director to perform increased structural fumigation, inspection, and enforcement activities. These activities shall be funded by the moneys collected pursuant to this chapter.

SEC. 2. Section 8698.1 of the Business and Professions Code is amended to read:

8698.1. (a) If the county has contracted pursuant to Section 8698, any person who performs a structural fumigation in Los Angeles County, Orange County, or Santa Clara County shall pay to the county agricultural commissioner a fee of five dollars ($5) for each treatment conducted at a specific building or structure.

(b) The fees shall be submitted by the 10th day of the month following the month in which the treatment was performed. The fees shall be accompanied by a copy of a monthly pesticide use report showing the addresses, including the department number if applicable, of all structural fumigations. The report shall be in a form required by the director, shall identify the name and address of the person or company performing the fumigation, and shall include any other information requested by the director.

SEC. 3. Section 8698.5 of the Business and Professions Code is amended to read:

8698.5. Any funds collected pursuant to this chapter shall be paid to the county and used for the sole purposes of funding enforcement and training activities directly related to the structural fumigation program created pursuant to Section 8698. The fees collected under this chapter shall be in addition to, and shall not be used to supplant, any other funds provided to the county agricultural commissioner pursuant to Section 12844 of the Food and Agricultural Code.

SEC. 4. Section 8698.6 is added to the Business and Professions Code, to read:

8698.6. This chapter shall remain in effect only until January 1, 2010, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 2010, deletes or extends that date.

CHAPTER 380

An act to amend Sections 920, 929, 930, 944, and 945 of the Military and Veterans Code, relating to veterans.

[Approved by Governor October 10, 2007. Filed with Secretary of State October 10, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 920 of the Military and Veterans Code is amended to read:

920. As used in this article, unless the context otherwise indicates, "veteran" means a person who has been honorably discharged from the United States Army, United States Navy, United States Air Force, United States Marine Corps, United States Coast Guard, the Merchant Marine, or the American Red Cross, and who has served in any war.

SEC. 2. Section 929 of the Military and Veterans Code is amended to read:

929. The necessary expenses, not to exceed three hundred fifty dollars ($350), for burial or cremation of any indigent veteran may be paid out of the money available under this article.

SEC. 3. Section 930 of the Military and Veterans Code is amended to read:

930. The money necessary to carry out this article may be taken from the general fund of the county.

SEC. 4. Section 944 of the Military and Veterans Code is amended to read:

944. In the event a deceased veteran or a widow of a veteran has been interred other than by the person designated by the board of supervisors, the person so designated may pay the sum of three hundred fifty dollars ($350) toward the burial expenses of the person who would have been entitled to interment by the person designated by the supervisors.

SEC. 5. Section 945 of the Military and Veterans Code is amended to read:

945. The expenses to the county of each burial or contribution shall not exceed the sum of three hundred fifty dollars ($350). Claims therefor are governed by Part 3 (commencing with Section 900) and Part 4 (commencing with Section 940) of Division 3.6 of Title 1 of the Government Code.

CHAPTER 381

An act to amend Section 17942 of, and to add Section 19394 to, the Revenue and Taxation Code, relating to limited liability companies, to take effect immediately, tax levy.

[Approved by Governor October 10, 2007. Filed with Secretary of State October 10, 2007.]

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares that the changes made by this act with respect to Section 17942 of the Revenue and Taxation Code are necessary to provide for the equitable tax treatment for limited liability companies in light of the following:

(a) The California Limited Liability Act (Ch. 1200, Stats. 1994) authorized limited liability companies for the first time to organize and register in the state. The Legislature was advised that an increasing number of businesses would organize as limited liability companies rather than corporations, resulting in a decrease in income and franchise tax revenue. To offset the loss in tax revenue, certain limited liability companies are required to pay an annual fee based on total income from all sources reportable to the state.

(b) The Legislature finds and declares that its intent in adopting Section 17942 was to ensure that limited liability companies pay a fair and appropriate amount to the State of California, consistent with constitutional limits, and the changes made by this act with respect to Section 17942 serve a public purpose and are in furtherance of the public

interest in the fair taxation of limited liability companies doing business in the state by applying the apportionment and allocation provisions to total income for purposes of determining the amount of the limited liability company fee.

(c) The Legislature further finds and declares that this act serves a public purpose and sound tax policy by affording equitable tax treatment to many taxpayers doing business in this state with the expectation of paying a limited liability company fee that is relative to the level of activity in the state.

SEC. 2. Section 17942 of the Revenue and Taxation Code is amended to read:

17942. (a) In addition to the tax imposed under Section 17941, every limited liability company subject to tax under Section 17941 shall pay annually to this state a fee equal to:

(1) Nine hundred dollars ($900), if the total income from all sources derived from or attributable to this state for the taxable year is two hundred fifty thousand dollars ($250,000) or more, but less than five hundred thousand dollars ($500,000).

(2) Two thousand five hundred dollars ($2,500), if the total income from all sources derived from or attributable to this state for the taxable year is five hundred thousand dollars ($500,000) or more, but less than one million dollars ($1,000,000).

(3) Six thousand dollars ($6,000), if the total income from all sources derived from or attributable to this state for the taxable year is one million dollars ($1,000,000) or more, but less than five million dollars ($5,000,000).

(4) Eleven thousand seven hundred ninety dollars ($11,790), if the total income from all sources derived from or attributable to this state for the taxable year is five million dollars ($5,000,000) or more.

(b) (1) (A) For purposes of this section, "total income from all sources derived from or attributable to this state" means gross income, as defined in Section 24271, plus the cost of goods sold that are paid or incurred in connection with the trade or business of the taxpayer. However, "total income from all sources derived from or attributable to this state" shall not include allocation or attribution of income or gain or distributions made to a limited liability company in its capacity as a member of, or holder of an economic interest in, another limited liability company if the allocation or attribution of income or gain or distributions are directly or indirectly attributable to income that is subject to the payment of the fee described in this section.

(B) For purposes of this section, "total income from all sources derived from or attributable to this state" shall be determined using the rules for assigning sales under Sections 25135 and 25136 and the regulations

thereunder, as modified by regulations under Section 25137, other than those provisions that exclude receipts from the sales factor.

(2) In the event a taxpayer is a commonly controlled limited liability company, the total income from all sources derived from or attributable to this state, taking into account any election under Section 25110, may be determined by the Franchise Tax Board to be the total income of all the commonly controlled limited liability company members if it determines that multiple limited liability companies were formed for the primary purpose of reducing fees payable under this section. A determination by the Franchise Tax Board under this subdivision may only be made with respect to one limited liability company in a commonly controlled group. However, each commonly controlled limited liability company shall be jointly and severally liable for the fee. For purposes of this section, commonly controlled limited liability companies shall include the taxpayer and any other partnership or limited liability company doing business (as defined in Section 23101) in this state and required to file a return under Section 18633 or 18633.5, in which the same persons own, directly or indirectly, more than 50 percent of the capital interests or profits interests.

(c) The fee assessed under this section shall be due and payable on the date the return of the limited liability company is required to be filed under Section 18633.5, shall be collected and refunded in the same manner as the taxes imposed by this part, and shall be subject to interest and applicable penalties.

SEC. 3. Section 19394 is added to the Revenue and Taxation Code, to read:

19394. If the fee provided under Section 17942 is finally adjudged to be discriminatory or unfairly apportioned under the California Constitution, or the laws or the Constitution of the United States, the fee of a disfavored taxpayer that files, or has filed, a timely claim for refund within the period allowed by this part asserting discrimination or unfair apportionment shall be recomputed by the Franchise Tax Board for the taxable year in question, as of the time of allowance of the recomputation, only to the extent necessary to remedy the discrimination or unfair apportionment that is not otherwise relieved by Section 19393 and the amount of the fee, as originally computed, shall be subject to the provisions hereof relating to original computations.

SEC. 4. (a) The Legislature is aware of pending litigation challenging the validity of the fee imposed pursuant to Section 17942 of the Revenue and Taxation Code.

(b) The amendments made by Section 2 of this act to Section 17942 of the Revenue and Taxation Code, if enacted, shall apply to taxable years beginning on and after January 1, 2007.

(c) Section 19394 of the Revenue and Taxation Code, as added by Section 3 of this act, shall apply to suits for refunds filed on or after the date of enactment of this act and suits for refunds filed before that date that are not final as of that date.

(d) Refunds of fees payable as a result of the litigation described in subdivision (a) shall be limited to the amount by which the fee paid, and any interest assessed thereon, exceeds the amount that would have been assessed if the fee had been computed in accordance with subparagraph (B) of paragraph (1) of subdivision (b) of Section 17942 of the Revenue and Taxation Code, as added by the amendments to that section made by Section 2 of this act.

(e) It is the intent of the Legislature that no inference be drawn in connection with the amendments made by this act to Section 17942 of the Revenue and Taxation Code for any taxable year beginning before January 1, 2007.

SEC. 5. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

CHAPTER 382

An act to amend Section 56366.10 of the Education Code, relating to special education.

[Approved by Governor October 10, 2007. Filed with Secretary of State October 10, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 56366.10 of the Education Code is amended to read:

56366.10. In addition to the certification requirements set forth in Sections 56366 and 56366.1, a nonpublic, nonsectarian school that provides special education and related services to an individual with exceptional needs shall certify in writing to the Superintendent that it meets all of the following requirements:

(a) It will not accept a pupil with exceptional needs if it cannot provide or ensure the provision of the services outlined in the pupil's individualized education program.

(b) Pupils have access to the following educational materials, services, and programs that are consistent with each pupil's individualized education program:

(1) (A) For kindergarten and grades 1 to 8, inclusive, state-adopted, standards-based, core curriculum and instructional materials.

(B) For grades 9 to 12, inclusive, standards-based, core curriculum and instructional materials used by any local educational agency that contracts with the nonpublic, nonsectarian school.

(2) College preparation courses.

(3) Extracurricular activities, such as art, sports, music, and academic clubs.

(4) Career preparation and vocational training, consistent with transition plans pursuant to state and federal law.

(5) Supplemental assistance, including individual academic tutoring, psychological counseling, and career and college counseling.

(c) The teachers and staff provide academic instruction and support services to pupils with the goal of integrating pupils into the least restrictive environment pursuant to federal law.

(d) The school has and abides by a written policy for pupil discipline which is consistent with state and federal law and regulations.

CHAPTER 383

An act to amend Sections 77200, 77201.1, and 77201.2 of, and to add Section 77201. 3 to, the Government Code, and to amend Section 1463.17 of the Penal Code, relating to trial court funding.

[Approved by Governor October 10, 2007. Filed with Secretary of State October 10, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 77200 of the Government Code is amended to read:

77200. On and after July 1, 1997, the state shall assume sole responsibility for the funding of court operations, as defined in Section 77003 and Rule 810 of the California Rules of Court as it read on July 1, 1996. In meeting this responsibility, the state shall do all of the following:

(a) Deposit in the State Trial Court Trust Fund, for subsequent allocation to or for the trial courts, all county funds remitted to the state pursuant to Section 77201 until June 30, 1998, pursuant to Section 77201.1 from July 1, 1998, until June 30, 2006, inclusive, and pursuant to Section 77201.3, thereafter.

(b) Be responsible for the cost of court operations incurred by the trial courts in the 1997–98 fiscal year and subsequent fiscal years.

(c) Allocate funds to the individual trial courts pursuant to an allocation schedule adopted by the Judicial Council, but in no case shall the amount allocated to the trial court in a county be less than the amount remitted to the state by the county in which that court is located pursuant to paragraphs (1) and (2) of subdivision (b) of Section 77201 until June 30, 1998, pursuant to paragraphs (1) and (2) of subdivision (b) of Section 77201.1 from July 1, 1998, until June 30, 2006, inclusive, and pursuant to paragraphs (1) and (2) of subdivision (a) of Section 77201.3, thereafter.

(d) The Judicial Council shall submit its allocation schedule to the Controller at least 5 days before the due date of any allocation.

SEC. 2. Section 77201.1 of the Government Code is amended to read:

77201.1. (a) Commencing on July 1, 1997, no county shall be responsible for funding court operations, as defined in Section 77003 and Rule 810 of the California Rules of Court as it read on July 1, 1996.

(b) Commencing in the 1999–2000 fiscal year, and each fiscal year thereafter until the 2006–07 fiscal year, each county shall remit to the state in four equal installments due on October 1, January 1, April 1, and May 1, the amounts specified in paragraphs (1) and (2). For the purpose of determining the counties' payments commencing in the 2006–07 fiscal year, and each fiscal year thereafter, the amounts listed in subdivision (a) of Section 77201.3 shall be used in lieu of the amounts listed in this subdivision.

(1) Except as otherwise specifically provided in this section, each county shall remit to the state the amount listed below which is based on an amount expended by the respective county for court operations during the 1994–95 fiscal year:

Jurisdiction	Amount
Alameda	$ 22,509,905
Alpine	-
Amador	-
Butte	-
Calaveras	-
Colusa	-
Contra Costa	11,974,535
Del Norte	-
El Dorado	-
Fresno	11,222,780
Glenn	-
Humboldt	-

Jurisdiction	Amount
Imperial	-
Inyo	-
Kern	9,234,511
Kings	-
Lake	-
Lassen	-
Los Angeles	175,330,647
Madera	-
Marin	-
Mariposa	-
Mendocino	-
Merced	-
Modoc	-
Mono	-
Monterey	4,520,911
Napa	-
Nevada	-
Orange	38,846,003
Placer	-
Plumas	-
Riverside	17,857,241
Sacramento	20,733,264
San Benito	-
San Bernardino	20,227,102
San Diego	43,495,932
San Francisco	19,295,303
San Joaquin	6,543,068
San Luis Obispo	-
San Mateo	12,181,079
Santa Barbara	6,764,792
Santa Clara	28,689,450
Santa Cruz	-
Shasta	-
Sierra	-
Siskiyou	-
Solano	6,242,661
Sonoma	6,162,466
Stanislaus	3,506,297
Sutter	-
Tehama	-
Trinity	-
Tulare	-

Jurisdiction	Amount
Tuolumne	-
Ventura	9,734,190
Yolo	-
Yuba	-

(2) Except as otherwise specifically provided in this section, each county shall also remit to the state the amount listed below which is based on an amount of fine and forfeiture revenue remitted to the state pursuant to Sections 27361 and 76000 of this code, Sections 1463.001, 1463.07, and 1464 of the Penal Code, and Sections 42007, 42007.1, and 42008 of the Vehicle Code during the 1994–95 fiscal year:

Jurisdiction	Amount
Alameda	$ 9,912,156
Alpine	58,757
Amador	265,707
Butte	1,217,052
Calaveras	310,331
Colusa	397,468
Contra Costa	4,486,486
Del Norte	124,085
El Dorado	1,028,349
Fresno	3,695,633
Glenn	360,974
Humboldt	1,025,583
Imperial	1,144,661
Inyo	614,920
Kern	5,530,972
Kings	982,208
Lake	375,570
Lassen	430,163
Los Angeles	71,002,129
Madera	1,042,797
Marin	2,111,712
Mariposa	135,457
Mendocino	717,075
Merced	1,733,156
Modoc	104,729
Mono	415,136
Monterey	3,330,125
Napa	719,168
Nevada	1,220,686

Jurisdiction	Amount
Orange	19,572,810
Placer	1,243,754
Plumas	193,772
Riverside	7,681,744
Sacramento	5,937,204
San Benito	302,324
San Bernardino	8,163,193
San Diego	16,166,735
San Francisco	4,046,107
San Joaquin	3,562,835
San Luis Obispo	2,036,515
San Mateo	4,831,497
Santa Barbara	3,277,610
Santa Clara	11,597,583
Santa Cruz	1,902,096
Shasta	1,044,700
Sierra	42,533
Siskiyou	615,581
Solano	2,708,758
Sonoma	2,316,999
Stanislaus	1,855,169
Sutter	678,681
Tehama	640,303
Trinity	137,087
Tulare	1,840,422
Tuolumne	361,665
Ventura	4,575,349
Yolo	880,798
Yuba	289,325

(3) Except as otherwise specifically provided in this section, county remittances specified in paragraphs (1) and (2) shall not be increased in subsequent years.

(4) Except for those counties with a population of 70,000, or less, on January 1, 1996, the amount a county is required to remit pursuant to paragraph (1) shall be adjusted by the amount equal to any adjustment resulting from the procedures in subdivisions (c) and (d) of Section 77201 as that section read on June 30, 1998, to the extent a county filed an appeal with the Controller with respect to the findings made by the Department of Finance. This paragraph shall not be construed to establish a new appeal process beyond what was provided by Section 77201, as that section read on June 30, 1998.

(5) Any change in statute or rule of court that either reduces the bail schedule or redirects or reduces a county's portion of fee, fine, and forfeiture revenue to an amount that is less than (A) the fees, fines, and forfeitures retained by that county, and (B) the county's portion of fines and forfeitures transmitted to the state in the 1994–95 fiscal year, shall reduce that county's remittance specified in paragraph (2) of this subdivision by an equal amount. Nothing in this paragraph is intended to limit judicial sentencing discretion.

(6) In the 2005–06 fiscal year, the amount that the County of Santa Clara is required to remit to the state under paragraph (2) shall be reduced as described in this paragraph, rather than as described in subdivision (b) of Section 68085.7. It is the intent of the Legislature that this paragraph have retroactive effect.

(A) For the County of Santa Clara, the remittance under this subdivision for the 2005–06 fiscal year shall be reduced by an amount equal to one-half of the amount calculated by subtracting the budget reduction for the Superior Court of Santa Clara County for that fiscal year attributable to the reduction of the counties' payment obligation from thirty-one million dollars ($31,000,000) pursuant to subdivision (a) of Section 68085.6 from the net civil assessments received in that county in that fiscal year. "Net civil assessments" as used in this paragraph means the amount of civil assessments collected minus the costs of collecting those civil assessments, under the guidelines of the Controller.

(B) The reduction under this paragraph of the amount that the County of Santa Clara is required to remit to the state for the 2005–06 fiscal year shall not exceed two million five hundred thousand dollars ($2,500,000). If the reduction reaches two million five hundred thousand dollars ($2,500,000), the amount the county is required to remit to the state under paragraph (2) of subdivision (a) of Section 77201.3 in each subsequent fiscal year shall be eight million four hundred sixty-one thousand two hundred and ninety-three dollars ($8,461,293).

(C) Nothing in this paragraph shall affect the reduction of the annual remittance for the County of Santa Clara as provided in Section 68085.2.

(7) Notwithstanding the changes to the amounts in paragraph (2) made by Section 68085.7 or any other section, the amounts in paragraph (2) shall not be changed for purposes of the calculation required by subdivision (a) of Section 77205.

(c) Nothing in this section is intended to relieve a county of the responsibility to provide necessary and suitable court facilities pursuant to Section 68073.

(d) Nothing in this section is intended to relieve a county of the responsibility for justice-related expenses not included in Section 77003

which are otherwise required of the county by law, including, but not limited to, indigent defense representation and investigation, and payment of juvenile justice charges.

(e) County base year remittance requirements specified in paragraph (2) of subdivision (b) incorporate specific reductions to reflect those instances where the Department of Finance has determined that a county's remittance to both the General Fund and the Trial Court Trust Fund during the 1994–95 fiscal year exceeded the aggregate amount of state funding from the General Fund and the Trial Court Trust Fund. The amount of the reduction was determined by calculating the difference between the amount the county remitted to the General Fund and the Trial Court Trust Fund and the aggregate amount of state support from the General Fund and the Trial Court Trust Fund allocated to the county's trial courts. In making its determination of whether a county is entitled to a reduction pursuant to that paragraph, the Department of Finance subtracted from county revenues remitted to the state, all moneys derived from the fee required by Section 42007.1 of the Vehicle Code and the parking surcharge required by subdivision (c) of Section 76000.

(f) Notwithstanding subdivision (e), the Department of Finance shall not reduce a county's base year remittance requirement, as specified in paragraph (2) of subdivision (b), if the county's trial court funding allocation was modified pursuant to the amendments to the allocation formula set forth in paragraph (4) of subdivision (d) of Section 77200, as amended by Chapter 2 of the Statutes of 1993, to provide a stable level of funding for small county courts in response to reductions in the General Fund support for the trial courts.

(g) In any fiscal year in which a county of the first class pays the employer-paid retirement contribution for court employees, or any other employees of the county who provide a service to the court, and the amounts of those payments are charged to the budget of the courts, the sum the county is required to pay to the state pursuant to paragraph (1) of subdivision (b) shall be increased by the actual amount charged to the trial court up to twenty-three million five hundred twenty-seven thousand nine hundred forty-nine dollars ($23,527,949) in that fiscal year. The county and the trial court shall report to the Controller and the Department of Finance the actual amount charged in that fiscal year.

(h) This section shall become operative on July 1, 1999.

SEC. 3. Section 77201.2 of the Government Code is amended to read:

77201.2. All moneys required to be paid to the Trial Court Trust Fund pursuant to Sections 77201, 77201.1, and 77201.3 shall be considered delinquent if not received by the dates therein specified, and shall be subject to the penalties set forth in Section 68085.

SEC. 4. Section 77201.3 is added to the Government Code, to read:

77201.3. (a) Commencing with the 2006–07 fiscal year, and each fiscal year thereafter, except as otherwise specifically provided in this section, each county shall remit to the state the amounts described in this subdivision in four equal installments due on October 1, January 1, April 1, and May 1. The amounts listed in this subdivision are in lieu of the amounts listed in subdivision (b) of Section 77201.1. However, for purposes of the calculation required by subdivision (a) of Section 77205, the amounts in paragraph (2) of subdivision (b) of Section 77201.1 shall be used.

(1) Each county shall remit to the state the amount listed below, which is based on an amount expended by the respective county for court operations during the 1994–95 fiscal year. The amount listed for Los Angeles County includes the twenty-three million five hundred twenty-seven thousand nine hundred forty-nine dollars ($23,527,949) increase required by subdivision (g) of Section 77201.1.

Jurisdiction	Amount
Alameda	$ 22,509,905
Alpine	-
Amador	-
Butte	-
Calaveras	-
Colusa	-
Contra Costa	11,974,535
Del Norte	-
El Dorado	-
Fresno	11,222,780
Glenn	-
Humboldt	-
Imperial	-
Inyo	-
Kern	9,234,511
Kings	-
Lake	-
Lassen	-
Los Angeles	198,858,596
Madera	-
Marin	-
Mariposa	-
Mendocino	-
Merced	-
Modoc	-

Jurisdiction	Amount
Mono	-
Monterey	4,520,911
Napa	-
Nevada	-
Orange	38,846,003
Placer	-
Plumas	-
Riverside	17,857,241
Sacramento	20,733,264
San Benito	-
San Bernardino	20,227,102
San Diego	43,495,932
San Francisco	19,295,303
San Joaquin	6,543,068
San Luis Obispo	-
San Mateo	12,181,079
Santa Barbara	6,764,792
Santa Clara	28,689,450
Santa Cruz	-
Shasta	-
Sierra	-
Siskiyou	-
Solano	6,242,661
Sonoma	6,162,466
Stanislaus	3,506,297
Sutter	-
Tehama	-
Trinity	-
Tulare	-
Tuolumne	-
Ventura	9,734,190
Yolo	-
Yuba	-

(2) (A) This paragraph sets forth the amount of the revenue maintenance of effort payment as modified by the reductions in Sections 68085.2 and 68085.7, including, if applicable, any adjustment made pursuant to paragraph (1) of subdivision (b) of Section 68085.8.

Jurisdiction	Amount
Alameda	$ 7,529,814
Alpine	58,459

Jurisdiction	Amount
Amador	261,618
Butte	797,512
Calaveras	298,247
Colusa	394,002
Contra Costa	3,136,407
Del Norte	120,598
El Dorado	732,606
Fresno	3,536,164
Glenn	293,014
Humboldt	933,601
Imperial	1,075,275
Inyo	610,438
Kern	5,247,051
Kings	759,717
Lake	133,003
Lassen	379,561
Los Angeles	47,023,566
Madera	1,025,684
Marin	2,010,028
Mariposa	131,611
Mendocino	441,037
Merced	1,600,227
Modoc	103,798
Mono	409,747
Monterey	2,662,998
Napa	710,832
Nevada	1,197,947
Orange	15,603,484
Placer	835,467
Plumas	154,384
Riverside	7,108,548
Sacramento	1,829,692
San Benito	270,940
San Bernardino	3,325,704
San Diego	13,501,132
San Francisco	3,123,814
San Joaquin	2,158,803
San Luis Obispo	1,754,131
San Mateo	2,527,355
Santa Barbara	3,117,677
Santa Cruz	1,495,691
Shasta	574,383

Jurisdiction	Amount
Sierra	41,810
Siskiyou	482,082
Solano	1,931,765
Sonoma	1,439,187
Stanislaus	1,079,927
Sutter	644,174
Tehama	627,958
Trinity	102,233
Tulare	1,345,686
Tuolumne	277,573
Ventura	2,283,494
Yolo	464,030
Yuba	273,437

(B) The amount remitted by the County of Santa Clara shall be ten million nine hundred sixty-one thousand two hundred ninety-three dollars ($10,961,293) reduced as described in clauses (i) and (ii).

(i) The amount remitted by the County of Santa Clara pursuant to this paragraph for each fiscal year shall be reduced by an amount equal to one-half of the amount calculated by subtracting the budget reduction for the Superior Court of Santa Clara County for that fiscal year attributable to the reduction of the counties' payment obligation from thirty-one million dollars ($31,000,000) pursuant to subdivision (a) of Section 68085.6 from the net civil assessments received in that county in that fiscal year. "Net civil assessments" as used in this paragraph means the amount of civil assessments collected minus the costs of collecting those civil assessments, under the guidelines of the Controller.

(ii) The reduction calculated pursuant to paragraph (i) shall not exceed two million five hundred thousand dollars ($2,500,000) in any fiscal year. If the reduction for a fiscal year reaches two million five hundred thousand dollars ($2,500,000), the amount that the county is required to remit to the state under this paragraph in that fiscal year and in each subsequent fiscal year shall be eight million four hundred sixty-one thousand two hundred ninety-three dollars ($8,461,293).

(b) Except as otherwise specifically provided in this section, county remittances specified in subdivision (a) shall not be increased in subsequent years.

(c) Except for those counties with a population of 70,000, or less, on January 1, 1996, the amount a county is required to remit pursuant to paragraph (1) of subdivision (a) shall be adjusted by the amount equal to any adjustment resulting from the procedures in subdivisions (c) and (d) of Section 77201 as that section read on June 30, 1998, to the extent

a county filed an appeal with the Controller with respect to the findings made by the Department of Finance. This subdivision shall not be construed to establish a new appeal process beyond what was provided by Section 77201, as that section read on June 30, 1998.

(d) Any change in statute or rule of court that either reduces the bail schedule or redirects or reduces a county's portion of fee, fine, and forfeiture revenue to an amount that is less than (1) the fees, fines, and forfeitures retained by that county, and (2) the county's portion of fines and forfeitures transmitted to the state in the 1994–95 fiscal year, shall reduce that county's remittance specified in paragraph (2) of subdivision (a) by an equal amount. Nothing in this subdivision is intended to limit judicial sentencing discretion.

(e) Nothing in this section is intended to relieve a county of the responsibility to provide necessary and suitable court facilities pursuant to Section 68073.

(f) Nothing in this section is intended to relieve a county of the responsibility for justice-related expenses not included in Section 77003 which are otherwise required of the county by law, including, but not limited to, indigent defense representation and investigation, and payment of juvenile justice charges.

SEC. 5. Section 1463.17 of the Penal Code is amended to read:

1463.17. (a) In a county of the 19th class, notwithstanding any other provision of this chapter, of the moneys deposited with the county treasurer pursuant to Section 1463, fifty dollars ($50) for each conviction of a violation of Section 23103, 23104, 23152, or 23153 of the Vehicle Code shall be deposited in a special account to be used exclusively to pay the cost incurred by the county or a city or special district within the county, with approval of the board of supervisors, for performing analysis of blood, breath, or urine for alcohol content or for the presence of drugs, or for services related to the testing.

(b) The application of this section shall not reduce the county's remittance to the state specified in paragraph (2) of subdivision (b) of Section 77201, paragraph (2) of subdivision (b) of Section 77201.1, and paragraph (2) of subdivision (a) of Section 77201.3 of the Government Code.

CHAPTER 384

An act to amend Section 22358.4 of the Vehicle Code, relating to vehicles.

[Approved by Governor October 10, 2007. Filed with
Secretary of State October 10, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 22358.4 of the Vehicle Code is amended to read:

22358.4. (a) (1) Whenever a local authority determines upon the basis of an engineering and traffic survey that the prima facie speed limit of 25 miles per hour established by paragraph (2) of subdivision (a) of Section 22352 is more than is reasonable or safe, the local authority may, by ordinance or resolution, determine and declare a prima facie speed limit of 20 or 15 miles per hour, whichever is justified as the appropriate speed limit by that survey.

(2) An ordinance or resolution adopted under paragraph (1) shall not be effective until appropriate signs giving notice of the speed limit are erected upon the highway and, in the case of a state highway, until the ordinance is approved by the Department of Transportation and the appropriate signs are erected upon the highway.

(b) (1) Notwithstanding subdivision (a) or any other provision of law, a local authority may, by ordinance or resolution, determine and declare prima facie speed limits as follows:

(A) A 15 miles per hour prima facie limit in a residence district, on a highway with a posted speed limit of 30 miles per hour or slower, when approaching, at a distance of less than 500 feet from, or passing, a school building or the grounds of a school building, contiguous to a highway and posted with a school warning sign that indicates a speed limit of 15 miles per hour, while children are going to or leaving the school, either during school hours or during the noon recess period. The prima facie limit shall also apply when approaching, at a distance of less than 500 feet from, or passing, school grounds that are not separated from the highway by a fence, gate, or other physical barrier while the grounds are in use by children and the highway is posted with a school warning sign that indicates a speed limit of 15 miles per hour.

(B) A 25 miles per hour prima facie limit in a residence district, on a highway with a posted speed limit of 30 miles per hour or slower, when approaching, at a distance of 500 to 1,000 feet from, a school building or the grounds thereof, contiguous to a highway and posted with a school warning sign that indicates a speed limit of 25 miles per hour, while children are going to or leaving the school, either during school hours or during the noon recess period. The prima facie limit shall also apply when approaching, at a distance of 500 to 1,000 feet from, school grounds that are not separated from the highway by a fence, gate, or other physical

barrier while the grounds are in use by children and the highway is posted with a school warning sign that indicates a speed limit of 25 miles per hour.

(2) The prima facie limits established under paragraph (1) apply only to highways that meet all of the following conditions:

(A) A maximum of two traffic lanes.

(B) A maximum posted 30 miles per hour prima facie speed limit immediately prior to and after the school zone.

(3) The prima facie limits established under paragraph (1) apply to all lanes of an affected highway, in both directions of travel.

(4) When determining the need to lower the prima facie speed limit, the local authority shall take the provisions of Section 627 into consideration.

(5) (A) An ordinance or resolution adopted under paragraph (1) shall not be effective until appropriate signs giving notice of the speed limit are erected upon the highway and, in the case of a state highway, until the ordinance is approved by the Department of Transportation and the appropriate signs are erected upon the highway.

(B) For purposes of subparagraph (A) of paragraph (1), school warning signs indicating a speed limit of 15 miles per hour may be placed at a distance up to 500 feet away from school grounds.

(C) For purposes of subparagraph (B) of paragraph (1), school warning signs indicating a speed limit of 25 miles per hour may be placed at any distance between 500 and 1,000 feet away from the school grounds.

(D) A local authority shall reimburse the Department of Transportation for all costs incurred by the department under this subdivision.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CHAPTER 385

An act to add Section 1379.5 to the Health and Safety Code, relating to health care service plans.

[Approved by Governor October 10, 2007. Filed with Secretary of State October 10, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 1379.5 is added to the Health and Safety Code, to read:

1379.5. (a) On and after July 1, 2008, every contract between a plan and a health care provider who provides health care services in Mexico to an enrollee of the plan shall require the health care provider knowing of, or in attendance on, a case or suspected case of any disease or condition listed in subdivision (j) of Section 2500 of Title 17 of the California Code of Regulations to report the case to the health officer of the jurisdiction in California where the patient in the case resides, or if the patient resides in Mexico and is employed in California, the contract shall require a health care provider to report the case to the health officer of the jurisdiction where the patient in the case is employed. The contract provision shall require the health care provider to make the report in accordance with subdivision (d) of Section 2500 of Title 17 of the California Code of Regulations, except that for reports in cases where the patient resides in Mexico the contract shall require the report to be made to the health officer of the jurisdiction where the patient is employed.

(b) For purposes of this section, the terms "case," "health care provider," "health officer," "in attendance," and "suspected case" shall have the same meanings as set forth in subdivision (a) of Section 2500 of Title 17 of the California Code of Regulations.

(c) A plan's obligations under this section shall be limited to the following:

(1) Ensuring that the contracts executed by providers who provide health care services in Mexico satisfy the requirements set forth in subdivision (a).

(2) Giving the following written notice to the provider at the time the signed contract is delivered:

> "This contract contains specific requirements regarding reporting of actual or suspected diseases or conditions to California health officers."

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the

definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CHAPTER 386

An act to add Section 2028.5 to the Business and Professions Code, relating to medicine.

[Approved by Governor October 10, 2007. Filed with Secretary of State October 10, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 2028.5 is added to the Business and Professions Code, to read:

2028.5. (a) The board may establish a pilot program to expand the practice of telemedicine in this state.

(b) To implement this pilot program, the board may convene a working group of interested parties from the public and private sectors, including, but not limited to, state health-related agencies, health care providers, health plan administrators, information technology groups, and groups representing health care consumers.

(c) The purpose of the pilot program shall be to develop methods, using a telemedicine model, to deliver throughout the state health care to persons with chronic diseases as well as information on the best practices for chronic disease management services and techniques and other health care information as deemed appropriate.

(d) The board shall make a report with its recommendations regarding its findings to the Legislature within one calendar year of the commencement date of the pilot program. The report shall include an evaluation of the improvement and affordability of health care services and the reduction in the number of complications achieved by the pilot program.

CHAPTER 387

An act to amend Section 22511.85 of the Vehicle Code, relating to vehicles.

[Approved by Governor October 10, 2007. Filed with Secretary of State October 10, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 22511.85 of the Vehicle Code is amended to read:

22511.85. A vehicle, identified with a special license plate issued pursuant to Section 5007 or a distinguishing placard issued pursuant to Section 22511.55 or 22511.59, which is equipped with a lift, ramp, or assistive equipment that is used for the loading and unloading of a person with a disability may park in not more than two adjacent stalls or spaces on a street or highway or in a public or private off-street parking facility if the equipment has been or will be used for loading or unloading a person with a disability, and if there is no single parking space immediately available on the street or highway or within the facility that is suitable for that purpose including, but not limited to, when there is not sufficient space to operate a vehicle lift, ramp, or assistive equipment or there is not sufficient room for a person with a disability to exit the vehicle or maneuver once outside the vehicle.

CHAPTER 388

An act to amend Section 12252 of the Probate Code, relating to attorney-client privilege.

[Approved by Governor October 10, 2007. Filed with Secretary of State October 10, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 12252 of the Probate Code is amended to read:

12252. If subsequent administration of an estate is necessary after the personal representative has been discharged because other property is discovered, disclosure is sought of a communication that is deemed privileged in the absence of a waiver by a personal representative under Article 3 (commencing with Section 950) of Chapter 4 of Division 8 of the Evidence Code, or because it becomes necessary or proper for any other cause, both of the following shall apply:

(a) The court shall appoint as personal representative the person entitled to appointment in the same order as is directed in relation to an original appointment, except that the person who served as personal representative at the time of the order of discharge has priority. The appointed personal representative shall be a holder of the decedent's

lawyer-client privilege for purposes of Article 3 (commencing with Section 950) of Chapter 4 of Division 8 of the Evidence Code.

(b) Notice of hearing of the appointment shall be given as provided in Section 1220 to the person who served as personal representative at the time of the order of discharge and to other interested persons. If property has been distributed to the State of California, a copy of any petition for subsequent appointment of a personal representative and the notice of hearing shall be given as provided in Section 1220 to the Controller.

SEC. 2. The California Law Revision Commission shall study the issue of whether and, if so, under what circumstances, the attorney-client privilege should survive the death of the client. The commission shall report all of its findings to the Legislature on or before July 1, 2009.

CHAPTER 389

An act to amend Sections 9250.7 and 22710 of the Vehicle Code, relating to vehicles.

[Approved by Governor October 10, 2007. Filed with Secretary of State October 10, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 9250.7 of the Vehicle Code is amended to read:

9250.7. (a) (1) A service authority established under Section 22710 may impose a service fee of one dollar ($1) on all vehicles, except vehicles described in subdivision (a) of Section 5014.1, registered to an owner with an address in the county that established the service authority. The fee shall be paid to the department at the time of registration, or renewal of registration, or when renewal becomes delinquent, except on vehicles that are expressly exempted under this code from the payment of registration fees.

(2) In addition to the one-dollar ($1) service fee, and upon the implementation of the permanent trailer identification plate program, and as part of the Commercial Vehicle Registration Act of 2001, all commercial motor vehicles subject to Section 9400.1 registered to an owner with an address in the county that established a service authority under this section shall pay an additional service fee of two dollars ($2).

(b) The department, after deducting its administrative costs, shall transmit, at least quarterly, the net amount collected pursuant to subdivision (a) to the Treasurer for deposit in the Abandoned Vehicle

Trust Fund, which is hereby created. All money in the fund is continuously appropriated to the Controller for allocation to a service authority that has an approved abandoned vehicle abatement program pursuant to Section 22710, and for payment of the administrative costs of the Controller. After deduction of its administrative costs, the Controller shall allocate the money in the Abandoned Vehicle Trust Fund to each service authority in proportion to the revenues received from the fee imposed by that authority pursuant to subdivision (a). If any funds received by a service authority pursuant to this section are not expended to abate abandoned vehicles pursuant to an approved abandoned vehicle abatement program that has been in existence for at least two full fiscal years within 90 days of the close of the fiscal year in which the funds were received and the amount of those funds exceeds the amount expended by the service authority for the abatement of abandoned vehicles in the previous fiscal year, the fee imposed pursuant to subdivision (a) shall be suspended for one year, commencing on July 1 following the Controller's determination pursuant to subdivision (e).

(c) Every service authority that imposes a fee authorized by subdivision (a) shall issue a fiscal yearend report to the Controller on or before October 31 of each year summarizing all of the following:

(1) The total revenues received by the service authority during the previous fiscal year.

(2) The total expenditures by the service authority during the previous fiscal year.

(3) The total number of vehicles abated during the previous fiscal year.

(4) The average cost per abatement during the previous fiscal year.

(5) Any additional, unexpended fee revenues for the service authority during the previous fiscal year.

(6) The number of notices to abate issued to vehicles during the previous fiscal year.

(7) The number of vehicles disposed of pursuant to an ordinance adopted pursuant to Section 22710 during the previous fiscal year.

(8) The total expenditures by the service authority for towing and storage of abandoned vehicles during the previous fiscal year.

(d) Each service authority that fails to submit the report required pursuant to subdivision (c) by October 31 of each year shall have its fee pursuant to subdivision (a) suspended for one year commencing on July 1 following the Controller's determination pursuant to subdivision (e).

(e) On or before January 1 annually, the Controller shall review the fiscal yearend reports, submitted by each service authority pursuant to subdivision (c) and due no later than October 31, to determine if fee revenues are being utilized in a manner consistent with the service

authority's approved program. If the Controller determines that the use of the fee revenues is not consistent with the service authority's program as approved by the Department of the California Highway Patrol, or that an excess of fee revenues exists, as specified in subdivision (b), the authority to collect the fee shall be suspended for one year pursuant to subdivision (b). If the Controller determines that a service authority has not submitted a fiscal yearend report as required in subdivision (c), the authorization to collect the service fee shall be suspended for one year pursuant to subdivisions (b) and (d). The Controller shall inform the Department of Motor Vehicles on or before January 1 annually, that the authority to collect the fee is suspended. A suspension shall only occur if the service authority has been in existence for at least two full fiscal years and the revenue fee surpluses are in excess of those allowed under this section, the use of the fee revenue is not consistent with the service authority's approved program, or the required fiscal yearend report has not been submitted by October 31.

(f) On or before January 1 annually, the Controller shall prepare and submit to the Legislature a revenue and expenditure summary for each service authority established under Section 22710 that includes, but is not limited to, all of the following:

(1) The total revenues received by each service authority.

(2) The total expenditures by each service authority.

(3) The unexpended revenues for each service authority.

(4) The total number of vehicle abatements for each service authority.

(5) The average cost per abatement as provided by each service authority to the Controller pursuant to subdivision (c).

(g) On or before January 1, 2010, and biennially thereafter, the service authority shall have a financial audit of the service authority conducted by a qualified independent third party.

(h) The fee imposed by a service authority shall remain in effect only for a period of 10 years from the date that the actual collection of the fee commenced unless the fee is extended pursuant to this subdivision. The fee may be extended in increments of up to 10 years each if the board of supervisors of the county, by a two-thirds vote, and a majority of the cities having a majority of the incorporated population within the county adopt resolutions providing for the extension of the fee.

SEC. 2. Section 22710 of the Vehicle Code is amended to read:

22710. (a) A service authority for the abatement of abandoned vehicles may be established, and a one dollar ($1) vehicle registration fee imposed, in a county if the board of supervisors of the county, by a two-thirds vote, and a majority of the cities having a majority of the incorporated population within the county have adopted resolutions providing for the establishment of the authority and imposition of the

fee. The membership of the authority shall be determined by concurrence of the board of supervisors and a majority vote of the majority of the cities within the county having a majority of the incorporated population.

(b) The authority may contract and may undertake any act convenient or necessary to carry out a law relating to the authority. The authority shall be staffed by existing personnel of the city, county, or county transportation commission.

(c) (1) Notwithstanding any other provision of law, a service authority may adopt an ordinance establishing procedures for the abatement, removal, and disposal, as a public nuisance, of an abandoned, wrecked, dismantled, or inoperative vehicle or part of the vehicle from private or public property; and for the recovery, pursuant to Section 25845 or 38773.5 of the Government Code, or assumption by the service authority, of costs associated with the enforcement of the ordinance. Cost recovery shall only be undertaken by an entity that may be a county or city or the department, pursuant to contract with the service authority as provided in this section.

(2) (A) The money received by an authority pursuant to Section 9250.7 and this section shall be used only for the abatement, removal, or the disposal as a public nuisance of any abandoned, wrecked, dismantled, or inoperative vehicle or part of the vehicle from private or public property. The money received shall not be used to offset the costs of vehicles towed under authorities other than an ordinance adopted pursuant to paragraph (1) or when costs are recovered under Section 22850.5.

(B) The money received by a service authority pursuant to Section 9250.7 and this section that are unexpended in a fiscal year may be carried forward by the service authority for the abandoned vehicle abatement program in the following fiscal year as agreed upon by the service authority and its member agencies.

(d) (1) An abandoned vehicle abatement program and plan of a service authority shall be implemented only with the approval of the county and a majority of the cities having a majority of the incorporated population.

(2) (A) The department shall provide guidelines for an abandoned vehicle abatement program. An authority's abandoned vehicle abatement plan and program shall be consistent with those guidelines, and shall provide for, but not be limited to, an estimate of the number of abandoned vehicles, a disposal and enforcement strategy including contractual agreements, and appropriate fiscal controls.

(B) The department's guidelines provided pursuant to this paragraph shall include, but not be limited to, requiring each service authority receiving funds from the Abandoned Vehicle Trust Fund to report to the Controller on an annual basis pursuant to subdivision (c) of Section

9250.7, in a manner prescribed by the department, and pursuant to an approved abandoned vehicle abatement program.

(C) A service authority may carry out an abandoned vehicle abatement from a public property after providing a notice as specified by the local ordinance adopted pursuant to Section 22660 of the jurisdiction in which the abandoned vehicle is located and that notice has expired.

(3) After a plan has been approved pursuant to paragraph (1), the service authority shall, not later than August 1 of the year in which the plan was approved, submit it to the department for review, and the department shall, not later than October 1 of that same year, either approve the plan as submitted or make recommendations for revision. After the plan has received the department's approval as being consistent with the department's guidelines, the service authority shall submit it to the Controller.

(4) Except as provided in subdivision (e), the Controller shall not make an allocation for a fiscal year, commencing on July 1 following the Controller's determination to suspend a service authority when a service authority has failed to comply with the provisions set forth in Section 9250.7.

(5) A governmental agency shall not receive funds from a service authority for the abatement of abandoned vehicles pursuant to an approved abandoned vehicle abatement program unless the governmental agency has submitted an annual report to the service authority stating the manner in which the funds were expended, and the number of vehicles abated. The governmental agency shall receive that percentage of the total funds collected by the service authority that is equal to its share of the formula calculated pursuant to paragraph (6).

(6) Each service authority shall calculate a formula for apportioning funds to each governmental agency that receives funds from the service authority and submit that formula to the Controller with the annual report required pursuant to paragraph (2). The formula shall apportion 50 percent of the funds received by the service authority to a governmental agency based on the percentage of vehicles abated by that governmental agency of the total number of abandoned vehicles abated by all member agencies, and 50 percent based on population and geographic area, as determined by the service authority. When the formula is first submitted to the Controller, and each time the formula is revised thereafter, the service authority shall include a detailed explanation of how the service authority determined the apportionment between per capita abatements and service area.

(7) Notwithstanding any other provision of this subdivision, the Controller may allocate to the service authority in the County of Humboldt the net amount of the abandoned vehicle abatement funds

received from the fee imposed by that authority, as described in subdivision (b) of Section 9250.7, for calendar years 2000 and 2001.

(e) A plan that has been submitted to the Controller pursuant to subdivision (d) may be revised pursuant to the procedure prescribed in that subdivision, including compliance with any dates described therein for submission to the department and the Controller, respectively, in the year in which the revisions are proposed by the service authority. Compliance with that procedure shall only be required if the revisions are substantial.

(f) For purposes of this section, "abandoned vehicle abatement" means the removal of a vehicle from public or private property by towing or any other means after the vehicle has been marked as abandoned by an official of a governmental agency that is a member of the service authority.

(g) A service authority shall cease to exist on the date that all revenues received by the authority pursuant to this section and Section 9250.7 have been expended.

(h) In the event of a conflict with other provisions of law, this section shall govern the disbursement of money collected pursuant to this section and from the Abandoned Vehicle Trust Fund for the implementation of the abandoned vehicle abatement program.

CHAPTER 390

An act to amend Section 851.8 of the Penal Code, relating to criminal procedure.

[Approved by Governor October 10, 2007. Filed with Secretary of State October 10, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 851.8 of the Penal Code is amended to read:

851.8. (a) In any case where a person has been arrested and no accusatory pleading has been filed, the person arrested may petition the law enforcement agency having jurisdiction over the offense to destroy its records of the arrest. A copy of the petition shall be served upon the prosecuting attorney of the county or city having jurisdiction over the offense. The law enforcement agency having jurisdiction over the offense, upon a determination that the person arrested is factually innocent, shall, with the concurrence of the prosecuting attorney, seal its arrest records, and the petition for relief under this section for three years from the date

of the arrest and thereafter destroy its arrest records and the petition. The law enforcement agency having jurisdiction over the offense shall notify the Department of Justice, and any law enforcement agency that arrested the petitioner or participated in the arrest of the petitioner for an offense for which the petitioner has been found factually innocent under this subdivision, of the sealing of the arrest records and the reason therefor. The Department of Justice and any law enforcement agency so notified shall forthwith seal their records of the arrest and the notice of sealing for three years from the date of the arrest, and thereafter destroy their records of the arrest and the notice of sealing. The law enforcement agency having jurisdiction over the offense and the Department of Justice shall request the destruction of any records of the arrest which they have given to any local, state, or federal agency or to any other person or entity. Each agency, person, or entity within the State of California receiving the request shall destroy its records of the arrest and the request, unless otherwise provided in this section.

(b) If, after receipt by both the law enforcement agency and the prosecuting attorney of a petition for relief under subdivision (a), the law enforcement agency and prosecuting attorney do not respond to the petition by accepting or denying the petition within 60 days after the running of the relevant statute of limitations or within 60 days after receipt of the petition in cases where the statute of limitations has previously lapsed, then the petition shall be deemed to be denied. In any case where the petition of an arrestee to the law enforcement agency to have an arrest record destroyed is denied, petition may be made to the superior court that would have had territorial jurisdiction over the matter. A copy of the petition shall be served on the law enforcement agency and the prosecuting attorney of the county or city having jurisdiction over the offense at least 10 days prior to the hearing thereon. The prosecuting attorney and the law enforcement agency through the district attorney may present evidence to the court at the hearing. Notwithstanding Section 1538.5 or 1539, any judicial determination of factual innocence made pursuant to this section may be heard and determined upon declarations, affidavits, police reports, or any other evidence submitted by the parties which is material, relevant and reliable. A finding of factual innocence and an order for the sealing and destruction of records pursuant to this section shall not be made unless the court finds that no reasonable cause exists to believe that the arrestee committed the offense for which the arrest was made. In any court hearing to determine the factual innocence of a party, the initial burden of proof shall rest with the petitioner to show that no reasonable cause exists to believe that the arrestee committed the offense for which the arrest was made. If the court finds that this showing of no reasonable

cause has been made by the petitioner, then the burden of proof shall shift to the respondent to show that a reasonable cause exists to believe that the petitioner committed the offense for which the arrest was made. If the court finds the arrestee to be factually innocent of the charges for which the arrest was made, then the court shall order the law enforcement agency having jurisdiction over the offense, the Department of Justice, and any law enforcement agency which arrested the petitioner or participated in the arrest of the petitioner for an offense for which the petitioner has been found factually innocent under this section to seal their records of the arrest and the court order to seal and destroy the records, for three years from the date of the arrest and thereafter to destroy their records of the arrest and the court order to seal and destroy such records. The court shall also order the law enforcement agency having jurisdiction over the offense and the Department of Justice to request the destruction of any records of the arrest which they have given to any local, state, or federal agency, person or entity. Each state or local agency, person or entity within the State of California receiving such a request shall destroy its records of the arrest and the request to destroy the records, unless otherwise provided in this section. The court shall give to the petitioner a copy of any court order concerning the destruction of the arrest records.

(c) In any case where a person has been arrested, and an accusatory pleading has been filed, but where no conviction has occurred, the defendant may, at any time after dismissal of the action, petition the court that dismissed the action for a finding that the defendant is factually innocent of the charges for which the arrest was made. A copy of the petition shall be served on the prosecuting attorney of the county or city in which the accusatory pleading was filed at least 10 days prior to the hearing on the petitioner's factual innocence. The prosecuting attorney may present evidence to the court at the hearing. The hearing shall be conducted as provided in subdivision (b). If the court finds the petitioner to be factually innocent of the charges for which the arrest was made, then the court shall grant the relief as provided in subdivision (b).

(d) In any case where a person has been arrested and an accusatory pleading has been filed, but where no conviction has occurred, the court may, with the concurrence of the prosecuting attorney, grant the relief provided in subdivision (b) at the time of the dismissal of the accusatory pleading.

(e) Whenever any person is acquitted of a charge and it appears to the judge presiding at the trial at which the acquittal occurred that the defendant was factually innocent of the charge, the judge may grant the relief provided in subdivision (b).

(f) In any case where a person who has been arrested is granted relief pursuant to subdivision (a) or (b), the law enforcement agency having jurisdiction over the offense or court shall issue a written declaration to the arrestee stating that it is the determination of the law enforcement agency having jurisdiction over the offense or court that the arrestee is factually innocent of the charges for which the person was arrested and that the arrestee is thereby exonerated. Thereafter, the arrest shall be deemed not to have occurred and the person may answer accordingly any question relating to its occurrence.

(g) The Department of Justice shall furnish forms to be utilized by persons applying for the destruction of their arrest records and for the written declaration that one person was found factually innocent under subdivisions (a) and (b).

(h) Documentation of arrest records destroyed pursuant to subdivision (a), (b), (c), (d), or (e) that are contained in investigative police reports shall bear the notation "Exonerated" whenever reference is made to the arrestee. The arrestee shall be notified in writing by the law enforcement agency having jurisdiction over the offense of the sealing and destruction of the arrest records pursuant to this section.

(i) Any finding that an arrestee is factually innocent pursuant to subdivision (a), (b), (c), (d), or (e) shall not be admissible as evidence in any action.

(j) Destruction of records of arrest pursuant to subdivision (a), (b), (c), (d), or (e) shall be accomplished by permanent obliteration of all entries or notations upon the records pertaining to the arrest, and the record shall be prepared again so that it appears that the arrest never occurred. However, where (1) the only entries on the record pertain to the arrest and (2) the record can be destroyed without necessarily affecting the destruction of other records, then the document constituting the record shall be physically destroyed.

(k) No records shall be destroyed pursuant to subdivision (a), (b), (c), (d), or (e) if the arrestee or a codefendant has filed a civil action against the peace officers or law enforcement jurisdiction which made the arrest or instituted the prosecution and if the agency which is the custodian of the records has received a certified copy of the complaint in the civil action, until the civil action has been resolved. Any records sealed pursuant to this section by the court in the civil actions, upon a showing of good cause, may be opened and submitted into evidence. The records shall be confidential and shall be available for inspection only by the court, jury, parties, counsel for the parties and any other person authorized by the court. Immediately following the final resolution of the civil action, records subject to subdivision (a), (b), (c), (d), or (e) shall be sealed and destroyed pursuant to subdivision (a), (b), (c), (d), or (e).

(*l*) For arrests occurring on or after January 1, 1981, and for accusatory pleadings filed on or after January 1, 1981, petitions for relief under this section may be filed up to two years from the date of the arrest or filing of the accusatory pleading, whichever is later. Until January 1, 1983, petitioners can file for relief under this section for arrests which occurred or accusatory pleadings which were filed up to five years prior to the effective date of the statute. Any time restrictions on filing for relief under this section may be waived upon a showing of good cause by the petitioner and in the absence of prejudice.

(m) Any relief which is available to a petitioner under this section for an arrest shall also be available for an arrest which has been deemed to be or described as a detention under Section 849.5 or 851.6.

(n) This section shall not apply to any offense which is classified as an infraction.

(o) (1) This section shall be repealed on the effective date of a final judgment based on a claim under the California or United States Constitution holding that evidence that is relevant, reliable, and material may not be considered for purposes of a judicial determination of factual innocence under this section. For purposes of this subdivision, a judgment by the appellate division of a superior court is a final judgment if it is published and if it is not reviewed on appeal by a court of appeal. A judgment of a court of appeal is a final judgment if it is published and if it is not reviewed by the California Supreme Court.

(2) Any decision referred to in this subdivision shall be stayed pending appeal.

(3) If not otherwise appealed by a party to the action, any decision referred to in this subdivision which is a judgment by the appellate division of the superior court shall be appealed by the Attorney General.

(p) A judgment of the court under subdivision (b), (c), (d), or (e) is subject to the following appeal path:

(1) In a felony case, appeal is to the court of appeal.

(2) In a misdemeanor case, or in a case in which no accusatory pleading was filed, appeal is to the appellate division of the superior court.

CHAPTER 391

An act to amend Section 629.98 of the Penal Code, relating to wiretaps.

[Approved by Governor October 10, 2007. Filed with
Secretary of State October 10, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 629.98 of the Penal Code is amended to read:

629.98. This chapter shall remain in effect only until January 1, 2012, and as of that date is repealed.

SEC. 2. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

CHAPTER 392

An act relating to antiterrorism, and making an appropriation therefor.

[Approved by Governor October 10, 2007. Filed with Secretary of State October 10, 2007.]

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) The terror attacks of September 11, 2001, have highlighted the need for training and coordination among first responders to deal effectively with the threat of potential or imminent attack and to be able to effectively respond to attacks that occur.

(b) California, with its vast terrain, large population, and high value targets, should do all that it can to protect its assets and critical infrastructure against foreign and domestic terror threats.

(c) Law enforcement officers and firefighters are our first line of defense against the threat of terrorism. Their brave and dedicated work is what keeps the state safe from potentially horrific acts that could cost countless lives, and millions, if not billions, of dollars.

(d) The Legislature and the Governor's office are committed to providing our first responders with the best training and equipment to safeguard the state.

(e) Prevention, preparedness, response, and recovery are the foundations of California's strategy to combat terrorism, and preventing acts of terrorism relies on well-trained first responders. Prevention relies on the ability of law enforcement officers and firefighters to identify and report indicators of terrorist activity.

(f) A recent survey conducted by the Commission on Peace Officer Standards and Training underscored the need for additional terrorism training for law enforcement agencies throughout the state.

(g) The Office of Emergency Services and the Office of Homeland Security have identified the need for additional terrorism-related training to be provided to the state's firefighters.

(h) The California Fire Fighter Joint Apprenticeship Committee has assembled a compendium of courses to meet firefighter training objectives concerning terrorism, that will enhance the state's ability to prevent, prepare, and respond to an act of terrorism.

SEC. 2. Five million dollars ($5,000,000) is hereby appropriated from the Antiterrorism Fund created pursuant to paragraph (1) of subdivision (c) of Section 5066 of the Vehicle Code, pursuant to the following schedule:

(a) Two million five hundred thousand dollars ($2,500,000) to the Office of Emergency Services, for disbursement in the 2007–08, 2008–09, and 2009–10 fiscal years to the California Fire Fighter Joint Apprenticeship Program. The California Fire Fighter Joint Apprenticeship Program shall expend that money to develop, in cooperation with the State Fire Marshal, antiterrorism training courses and reimburse fire agencies for antiterrorism training activities, in accordance with Section 8588.11 of the Government Code.

(b) Two million five hundred thousand dollars ($2,500,000) to the Commission on Peace Officer Standards and Training, for expenditure in the 2007–08, 2008–09, and 2009–10 fiscal years. The Commission on Peace Officer Standards and Training shall expend that money to develop antiterrorism training courses and reimburse local law enforcement agencies and state law enforcement agencies that employ peace officers and that participate in and comply with the Peace Officer Standards and Training Program, for antiterrorism training activities.

CHAPTER 393

An act to amend Sections 11165.5, 11165.6 and 11166 of the Penal Code, relating to child abuse.

[Approved by Governor October 10, 2007. Filed with Secretary of State October 10, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 11165.5 of the Penal Code is amended to read:

11165.5. As used in this article, the term "abuse or neglect in out-of-home care" includes physical injury or death inflicted upon a child by another person by other than accidental means, sexual abuse as defined in Section 11165.1, neglect as defined in Section 11165.2, unlawful corporal punishment or injury as defined in Section 11165.4, or the willful harming or injuring of a child or the endangering of the person or health of a child, as defined in Section 11165.3, where the person responsible for the child's welfare is a licensee, administrator, or employee of any facility licensed to care for children, or an administrator or employee of a public or private school or other institution or agency. "Abuse or neglect in out-of-home care" does not include an injury caused by reasonable and necessary force used by a peace officer acting within the course and scope of his or her employment as a peace officer.

SEC. 2. Section 11165.6 of the Penal Code is amended to read:

11165.6. As used in this article, the term "child abuse or neglect" includes physical injury or death inflicted by other than accidental means upon a child by another person, sexual abuse as defined in Section 11165.1, neglect as defined in Section 11165.2, the willful harming or injuring of a child or the endangering of the person or health of a child, as defined in Section 11165.3, and unlawful corporal punishment or injury as defined in Section 11165.4. "Child abuse or neglect" does not include a mutual affray between minors. "Child abuse or neglect" does not include an injury caused by reasonable and necessary force used by a peace officer acting within the course and scope of his or her employment as a peace officer.

SEC. 3. Section 11166 of the Penal Code is amended to read:

11166. (a) Except as provided in subdivision (d), and in Section 11166.05, a mandated reporter shall make a report to an agency specified in Section 11165.9 whenever the mandated reporter, in his or her professional capacity or within the scope of his or her employment, has knowledge of or observes a child whom the mandated reporter knows or reasonably suspects has been the victim of child abuse or neglect. The mandated reporter shall make an initial report to the agency immediately or as soon as is practicably possible by telephone and the mandated reporter shall prepare and send, fax, or electronically transmit a written followup report thereof within 36 hours of receiving the information concerning the incident. The mandated reporter may include with the report any nonprivileged documentary evidence the mandated reporter possesses relating to the incident.

(1) For the purposes of this article, "reasonable suspicion" means that it is objectively reasonable for a person to entertain a suspicion, based upon facts that could cause a reasonable person in a like position,

drawing, when appropriate, on his or her training and experience, to suspect child abuse or neglect. For the purpose of this article, the pregnancy of a minor does not, in and of itself, constitute a basis for a reasonable suspicion of sexual abuse.

(2) The agency shall be notified and a report shall be prepared and sent, faxed, or electronically transmitted even if the child has expired, regardless of whether or not the possible abuse was a factor contributing to the death, and even if suspected child abuse was discovered during an autopsy.

(3) Any report made by a mandated reporter pursuant to this section shall be known as a mandated report.

(b) If after reasonable efforts a mandated reporter is unable to submit an initial report by telephone, he or she shall immediately or as soon as is practicably possible, by fax or electronic transmission, make a one-time automated written report on the form prescribed by the Department of Justice, and shall also be available to respond to a telephone followup call by the agency with which he or she filed the report. A mandated reporter who files a one-time automated written report because he or she was unable to submit an initial report by telephone is not required to submit a written followup report.

(1) The one-time automated written report form prescribed by the Department of Justice shall be clearly identifiable so that it is not mistaken for a standard written followup report. In addition, the automated one-time report shall contain a section that allows the mandated reporter to state the reason the initial telephone call was not able to be completed. The reason for the submission of the one-time automated written report in lieu of the procedure prescribed in subdivision (a) shall be captured in the Child Welfare Services/Case Management System (CWS/CMS). The department shall work with stakeholders to modify reporting forms and the CWS/CMS as is necessary to accommodate the changes enacted by these provisions.

(2) This subdivision shall not become operative until the CWS/CMS is updated to capture the information prescribed in this subdivision.

(3) This subdivision shall become inoperative three years after this subdivision becomes operative or on January 1, 2009, whichever occurs first.

(4) On the inoperative date of these provisions, a report shall be submitted to the counties and the Legislature by the Department of Social Services that reflects the data collected from automated one-time reports indicating the reasons stated as to why the automated one-time report was filed in lieu of the initial telephone report.

(5) Nothing in this section shall supersede the requirement that a mandated reporter first attempt to make a report via telephone, or that

agencies specified in Section 11165.9 accept reports from mandated reporters and other persons as required.

(c) Any mandated reporter who fails to report an incident of known or reasonably suspected child abuse or neglect as required by this section is guilty of a misdemeanor punishable by up to six months confinement in a county jail or by a fine of one thousand dollars ($1,000) or by both that imprisonment and fine. If a mandated reporter intentionally conceals his or her failure to report an incident known by the mandated reporter to be abuse or severe neglect under this section, the failure to report is a continuing offense until an agency specified in Section 11165.9 discovers the offense.

(d) (1) A clergy member who acquires knowledge or a reasonable suspicion of child abuse or neglect during a penitential communication is not subject to subdivision (a). For the purposes of this subdivision, "penitential communication" means a communication, intended to be in confidence, including, but not limited to, a sacramental confession, made to a clergy member who, in the course of the discipline or practice of his or her church, denomination, or organization, is authorized or accustomed to hear those communications, and under the discipline, tenets, customs, or practices of his or her church, denomination, or organization, has a duty to keep those communications secret.

(2) Nothing in this subdivision shall be construed to modify or limit a clergy member's duty to report known or suspected child abuse or neglect when the clergy member is acting in some other capacity that would otherwise make the clergy member a mandated reporter.

(3) (A) On or before January 1, 2004, a clergy member or any custodian of records for the clergy member may report to an agency specified in Section 11165.9 that the clergy member or any custodian of records for the clergy member, prior to January 1, 1997, in his or her professional capacity or within the scope of his or her employment, other than during a penitential communication, acquired knowledge or had a reasonable suspicion that a child had been the victim of sexual abuse that the clergy member or any custodian of records for the clergy member did not previously report the abuse to an agency specified in Section 11165.9. The provisions of Section 11172 shall apply to all reports made pursuant to this paragraph.

(B) This paragraph shall apply even if the victim of the known or suspected abuse has reached the age of majority by the time the required report is made.

(C) The local law enforcement agency shall have jurisdiction to investigate any report of child abuse made pursuant to this paragraph even if the report is made after the victim has reached the age of majority.

(e) Any commercial film and photographic print processor who has knowledge of or observes, within the scope of his or her professional capacity or employment, any film, photograph, videotape, negative, or slide depicting a child under the age of 16 years engaged in an act of sexual conduct, shall report the instance of suspected child abuse to the law enforcement agency having jurisdiction over the case immediately, or as soon as practicably possible, by telephone and shall prepare and send, fax, or electronically transmit a written report of it with a copy of the film, photograph, videotape, negative, or slide attached within 36 hours of receiving the information concerning the incident. As used in this subdivision, "sexual conduct" means any of the following:

(1) Sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex or between humans and animals.

(2) Penetration of the vagina or rectum by any object.

(3) Masturbation for the purpose of sexual stimulation of the viewer.

(4) Sadomasochistic abuse for the purpose of sexual stimulation of the viewer.

(5) Exhibition of the genitals, pubic, or rectal areas of any person for the purpose of sexual stimulation of the viewer.

(f) Any mandated reporter who knows or reasonably suspects that the home or institution in which a child resides is unsuitable for the child because of abuse or neglect of the child shall bring the condition to the attention of the agency to which, and at the same time as, he or she makes a report of the abuse or neglect pursuant to subdivision (a).

(g) Any other person who has knowledge of or observes a child whom he or she knows or reasonably suspects has been a victim of child abuse or neglect may report the known or suspected instance of child abuse or neglect to an agency specified in Section 11165.9. For purposes of this section, "any other person" includes a mandated reporter who acts in his or her private capacity and not in his or her professional capacity or within the scope of his or her employment.

(h) When two or more persons, who are required to report, jointly have knowledge of a known or suspected instance of child abuse or neglect, and when there is agreement among them, the telephone report may be made by a member of the team selected by mutual agreement and a single report may be made and signed by the selected member of the reporting team. Any member who has knowledge that the member designated to report has failed to do so shall thereafter make the report.

(i) (1) The reporting duties under this section are individual, and no supervisor or administrator may impede or inhibit the reporting duties, and no person making a report shall be subject to any sanction for making the report. However, internal procedures to facilitate reporting and apprise

supervisors and administrators of reports may be established provided that they are not inconsistent with this article.

(2) The internal procedures shall not require any employee required to make reports pursuant to this article to disclose his or her identity to the employer.

(3) Reporting the information regarding a case of possible child abuse or neglect to an employer, supervisor, school principal, school counselor, coworker, or other person shall not be a substitute for making a mandated report to an agency specified in Section 11165.9.

(j) A county probation or welfare department shall immediately, or as soon as practicably possible, report by telephone, fax, or electronic transmission to the law enforcement agency having jurisdiction over the case, to the agency given the responsibility for investigation of cases under Section 300 of the Welfare and Institutions Code, and to the district attorney's office every known or suspected instance of child abuse or neglect, as defined in Section 11165.6, except acts or omissions coming within subdivision (b) of Section 11165.2, or reports made pursuant to Section 11165.13 based on risk to a child which relates solely to the inability of the parent to provide the child with regular care due to the parent's substance abuse, which shall be reported only to the county welfare or probation department. A county probation or welfare department also shall send, fax, or electronically transmit a written report thereof within 36 hours of receiving the information concerning the incident to any agency to which it makes a telephone report under this subdivision.

(k) A law enforcement agency shall immediately, or as soon as practicably possible, report by telephone, fax, or electronic transmission to the agency given responsibility for investigation of cases under Section 300 of the Welfare and Institutions Code and to the district attorney's office every known or suspected instance of child abuse or neglect reported to it, except acts or omissions coming within subdivision (b) of Section 11165.2, which shall be reported only to the county welfare or probation department. A law enforcement agency shall report to the county welfare or probation department every known or suspected instance of child abuse or neglect reported to it which is alleged to have occurred as a result of the action of a person responsible for the child's welfare, or as the result of the failure of a person responsible for the child's welfare to adequately protect the minor from abuse when the person responsible for the child's welfare knew or reasonably should have known that the minor was in danger of abuse. A law enforcement agency also shall send, fax, or electronically transmit a written report thereof within 36 hours of receiving the information concerning the

incident to any agency to which it makes a telephone report under this subdivision.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because, in that regard, this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

CHAPTER 394

An act to add Section 1202.51 to the Penal Code, relating to illegal dumping.

[Approved by Governor October 10, 2007. Filed with Secretary of State October 10, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 1202.51 is added to the Penal Code, to read:

1202.51. In any case in which a defendant is convicted of any of the offenses enumerated in Section 372, 373a, 374.3, 374.4, 374.7, or 374.8, the court shall order the defendant to pay a fine of one hundred dollars ($100) if the conviction is for an infraction or two hundred dollars ($200) if the conviction is for a misdemeanor, in addition to any other penalty or fine imposed. If the court determines that the defendant has the ability to pay all or part of the fine, the court shall set the amount to be paid and order the defendant to pay that sum to the city or, if not within a city, the county, where the violation occurred, to be used for the city's or county's illegal dumping enforcement program. Notwithstanding any other provision of law, no state or county penalty, assessment, fee, or surcharge shall be imposed on the fine ordered under this section.

CHAPTER 395

An act to add Section 17537.12 to the Business and Professions Code, relating to deceptive practices.

[Approved by Governor October 10, 2007. Filed with Secretary of State October 10, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 17537.12 is added to the Business and Professions Code, to read:

17537.12. (a) This section shall be known and may be cited as the Truth in Music Advertising Act.

(b) As used in this section, the following terms have the following meanings unless the context clearly indicates otherwise:

(1) "Performing group" means a vocal or instrumental group seeking to use the name of another group that has previously released a commercial sound recording under that name.

(2) "Person" means the performing group or its promoter, manager, or agent. "Person" does not include the performance venue or its owners, managers, or operators, unless the performance venue owns or produces the performing group, or knew or should have known that the performing group does not have a legal right to perform.

(3) "Recording group" means a vocal or instrumental group, at least one of whose members has previously released a commercial sound recording under that group's name and in which the member or members have a legal right by virtue of use or operation under the group name without having abandoned the name or affiliation with the group.

(4) "Sound recording" means a work that results from the fixation on a material object of a series of musical, spoken, or other sounds regardless of the nature of the material object, such as a disk, tape, or other phonorecord, in which the sounds are embodied.

(c) No person shall advertise or conduct a live musical performance or production through the use of a false, deceptive, or misleading affiliation, connection, or association between a performing group and a recording group unless any of the following apply:

(1) The performing group is the authorized registrant and owner of a federal service mark for the group registered in the United States Patent and Trademark Office.

(2) At least one member of the performing group was previously a member of the recording group and has a legal right by virtue of use or

operation under the group name without having abandoned the name or affiliation of the group.

(3) The live musical performance or production is identified in all advertising and promotion as a salute or tribute, and the name of the vocal or instrumental group performing is not so closely related or similar to that used by the recording group that it would tend to confuse or mislead the public.

(4) The advertising does not relate to a live musical performance or production taking place in this state.

(5) The performance or production is expressly authorized by the recording group.

(d) (1) Any person who violates any of the provisions of this section shall be subject to a civil penalty not to exceed two thousand five hundred dollars ($2,500) per violation, as provided in subdivision (a) of Section 17206. An action for a civil penalty be brought by a public prosecutor as provided in subdivision (a) of Section 17206 and shall be enforceable as a civil judgment.

(2) Any person who violates any of the provisions of this section shall be subject to the equitable remedies described in Chapter 5 (commencing with Section 17200) of Part 2.

(3) Nothing in this section shall preclude prosecution of a violation of this section under any other provision of law.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CHAPTER 396

An act to amend Sections 11208 and 11219.5 of the Vehicle Code, relating to vehicles.

[Approved by Governor October 10, 2007. Filed with Secretary of State October 10, 2007.]

The people of the State of California do enact as follows:

SECTION 1. (a) It is the intent of the Legislature that, except as provided in subdivisions (f) and (g) of Section 42005 of the Vehicle Code, the Department of Motor Vehicles should license all programs that provide traffic safety instruction to traffic violators, if the completion of the program would result in the dismissal of a traffic violation by a court or the completion of the program would be in lieu of adjudicating the traffic offense.

(b) It is the further intent of the Legislature that the licensing authority of the department should apply regardless of the modality in which the traffic safety instruction is given.

(c) Except as provided in subdivisions (f) and (g) of Section 42005 of the Vehicle Code, it is the intent of the Legislature that a court should not dismiss a traffic citation committed by a driver who completes a traffic safety instruction program unless that program is licensed by the department.

SEC. 2. Section 11208 of the Vehicle Code is amended to read:

11208. (a) Fees for issuance by the department of a license to a traffic violator school owner shall be as follows:

(1) For the original license or an ownership change which requires a new application, except as provided by Section 42231, a fee of one hundred fifty dollars ($150), with an additional fee of seventy dollars ($70) for each separate traffic violator school branch or classroom location licensed. The fee prescribed by this subdivision is nonrefundable.

(2) For annual renewal of the license for a traffic violator school and for each branch or classroom location, a fee of fifty dollars ($50).

(3) If alteration of an existing license is required by a firm name change, a change in corporate officer structure, address change, or the addition of a traffic violator school branch or classroom location, a fee of seventy dollars ($70).

(4) For replacement of the license certificate when the original license is lost, stolen, or mutilated, a fee of fifteen dollars ($15).

(b) Fees for the issuance by the department of a license for a traffic violator school operator shall be as follows:

(1) For the original license, a nonrefundable fee of one hundred dollars ($100).

(2) For annual renewal of the license, a fee of fifty dollars ($50).

(3) If alteration of an existing license is caused by a change in the name or location of the established principal place of business of the traffic violator school operated by the licensee, including a transfer by a licensee from one traffic violator school to another, a fee of fifteen dollars ($15).

(4) For replacement of the license certificate when the original license is lost, stolen, or mutilated, a fee of fifteen dollars ($15).

(c) Fees for the issuance by the department of a license for a traffic violator school instructor shall be as follows:

(1) For the original license, except as provided by Section 42231, a nonrefundable fee of thirty dollars ($30).

(2) For the triennial renewal of a license, a fee of thirty dollars ($30).

(3) If alteration of an existing license is required by a change in the instructor's employing school's name or location, or transfer of the instructor's license to another employing school, a fee of fifteen dollars ($15).

(4) For replacement of the instructor's license certificate when the original license is lost, stolen, or mutilated, a fee of fifteen dollars ($15).

(d) The department shall charge a fee, not to exceed three dollars ($3), for each completion certificate issued by a traffic violator school to each person referred by a court pursuant to Section 42005 and completing instruction at the traffic violator school. The amount of the fee shall be determined by the department and shall be a fee sufficient to defray the actual costs incurred by the department for publication and distribution of lists of schools for traffic violators pursuant to Section 11205, for monitoring instruction, business practices, and records of schools for traffic violators and for any other activities deemed necessary by the department to assure high quality education for traffic violators. Upon satisfactory completion of the instruction offered by a licensed traffic violator school, the traffic violator school shall provide the student referred by a court pursuant to Section 42005 with a certificate of completion furnished by the department. A certificate of completion shall not be issued to a person who elects to attend a traffic violator school. A traffic violator school shall not charge a fee in excess of the fee charged by the department pursuant to this subdivision for furnishing a certificate of completion. A traffic violator school may charge a fee not to exceed fifteen dollars ($15), to issue a duplicate certificate of completion that was requested by a traffic violator, when the original certificate was lost, stolen, or mutilated. A student referred by a court pursuant to Section 42005 shall present this certificate of completion to the court as proof of completion of instruction, and no other proof of completion of instruction may be accepted by the court.

(e) The department shall compile its actual costs incurred to determine the fee prescribed in subdivision (d) and make available its financial records used in the determination of the fee for completion certificates. The fee shall be adjusted every odd-numbered year based upon the costs incurred during the preceding two fiscal years. The records described in this subdivision are public records.

SEC. 3. Section 11219.5 of the Vehicle Code is amended to read:

11219.5. (a) A traffic violator school shall issue a receipt for a fee collected by the traffic violator school from a person who registers for, attends, or completes a program of instruction in traffic safety at the licensed traffic violator school.

(b) In the event of a cancellation of a scheduled class, a licensee under this chapter shall not be required by the department to provide a program of instruction in traffic safety to a person for a fee that is less than the standard fee normally charged by the licensee for its program, if a notice of cancellation of a class is given to a student at least 72 hours prior to the start of the class, or if the class was canceled based upon exigent circumstances beyond the control of the licensee.

SEC. 4. (a) Notwithstanding Section 7550.5 of the Government Code, on or before July 1, 2008, the Department of Motor Vehicles shall submit a report to the Legislature containing a comprehensive plan by which the licensing of all traffic violator instruction programs may be consolidated under the authority of the department.

(b) The report described in subdivision (a) shall be prepared in consultation with representatives of the courts, the traffic violator school industry, and court assistance programs, and shall include, but not be limited to, all of the following components:

(1) An estimated date by which all traffic violator schools, regardless of the mode used to present the curricula, shall be licensed under the comprehensive licensing program.

(2) A plan to ensure that traffic safety instruction programs not licensed by the department, but authorized by a court may continue to operate until the adoption and implementation of a certification and licencing program by the department.

(3) (A) Curriculum requirements that ensure educational equivalency within all modalities authorized by the department's licensing program.

(B) In making its determination of educational equivalency, the department shall take into consideration the differing methods of instruction and the self-paced nature of home study programs.

(4) Development of standards that ensure the reasonable protection of a student's personal information.

(5) Recommendations for modifying existing statutory and regulatory requirements related to the traffic violator school program.

(6) A plan for distributing a list of all licensed traffic violator schools to courts and violators, including the modalities that are offered by each school, and a method for randomizing the names that appear on the referral list.

(7) Recommendations for a fee schedule to cover the administrative costs to the department for the licensing and ongoing regulation of traffic violator schools.

(8) Methodologies for distributing traffic violator school course completion certificates to licensed traffic violator schools, including electronic distribution.

(9) A plan describing the department's procedures for audit, inspection, and monitoring of all licensed traffic violator schools.

(10) A plan for the department's expeditious response to complaints regarding a licensed traffic violator school. The plan shall include, but not be limited to, complaints lodged by consumers, court assistance programs, or the courts.

(11) A cost-benefit analysis of contracting with nongovernmental entities to assist in the monitoring of traffic violator school programs for the purpose of ensuring quality instruction and consumer protection.

CHAPTER 397

An act to add Section 12304.7 to the Welfare and Institutions Code, relating to public social services.

[Approved by Governor October 10, 2007. Filed with Secretary of State October 10, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 12304.7 is added to the Welfare and Institutions Code, to read:

12304.7. Between January 1 and April 15 of each year, the Controller shall include a notice on, and insert an informational flyer which shall be prepared by the department, with, all payroll warrants issued to providers of services under this chapter informing those providers that they may qualify for the federal earned income tax credit, as provided for in Section 32 of the Internal Revenue Code.

CHAPTER 398

An act to add Article 19 (commencing with Section 13630) to Chapter 14 of Division 5 of the Business and Professions Code, relating to gasoline dispensing.

[Approved by Governor October 10, 2007. Filed with
Secretary of State October 10, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Article 19 (commencing with Section 13630) is added to Chapter 14 of Division 5 of the Business and Professions Code, to read:

Article 19. Fuel Delivery Temperature Study

13630. (a) The California Energy Commission in partnership with the Department of Food and Agriculture and the State Air Resources Board shall conduct a comprehensive survey and cost-benefit analysis, as follows:

(1) The department shall conduct a survey on the effect of temperatures on fuel deliveries. The survey shall be conducted during routine dispenser inspections by determining the accuracy of fuel delivery, and recording fuel temperature, air temperature, and storage tank temperature at fuel stations and other fuel facilities subject to inspection. It is the intent of the Legislature that the department use data collected by the survey that the department started on April 1, 2007, and will complete on March 31, 2008.

(2) The department shall transmit the results of the survey to the California Energy Commission, which shall conduct a cost-benefit analysis and comparison of various options relative to temperature-corrected gallonage temperatures for the following:

(A) Retaining the current reference temperature of 60 degrees Fahrenheit.

(B) Establishing a different statewide reference temperature.

(C) Establishing different regional reference temperatures for the state.

(D) Requiring the installation of temperature correction or compensation equipment at the pump.

(b) The commission shall evaluate how different reference temperatures or temperature correction devices apply to alternative fuels and low-carbon fuel standards.

(c) The California Energy Commission shall convene an advisory group no later than January 25, 2008, including, but not limited to, equipment manufacturers, consumer groups, fuel industry representatives, agricultural commissioners, appropriate government agencies, and other interested parties to provide guidance on the study pursuant to this section and provide guidance on the analysis and recommendations.

(d) The California Energy Commission, in partnership with the Department of Food and Agriculture and the State Air Resources Board, shall conduct public hearings on the results of the cost-benefit analysis and report to the Legislature regarding recommended legislation and regulations based on the results of the study not later than December 31, 2008.

CHAPTER 399

An act to amend Sections 1185 and 1189 of the Civil Code, and to amend Sections 6203, 8201.1, 8201.2, 8201.5, 8202, 8206, 8213.5, 8213.6, 8214.1, 8214.2, 8214.15, 8221, 8225, 8228, and 8228.1 of, and to add Sections 8214.21 and 8214.23 to, the Government Code, relating to notaries.

[Approved by Governor October 10, 2007. Filed with Secretary of State October 10, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 1185 of the Civil Code is amended to read:

1185. (a) The acknowledgment of an instrument shall not be taken unless the officer taking it has satisfactory evidence that the person making the acknowledgment is the individual who is described in and who executed the instrument.

(b) For the purposes of this section "satisfactory evidence" means the absence of any information, evidence, or other circumstances which would lead a reasonable person to believe that the person making the acknowledgment is not the individual he or she claims to be and any one of the following:

(1) (A) The oath or affirmation of a credible witness personally known to the officer, whose identity is proven to the officer upon presentation of any document satisfying the requirements of paragraph (3) or (4), that the person making the acknowledgment is personally known to the witness and that each of the following are true:

(i) The person making the acknowledgment is the person named in the document.

(ii) The person making the acknowledgment is personally known to the witness.

(iii) That it is the reasonable belief of the witness that the circumstances of the person making the acknowledgment are such that

it would be very difficult or impossible for that person to obtain another form of identification.

(iv) The person making the acknowledgment does not possess any of the identification documents named in paragraphs (3) and (4).

(v) The witness does not have a financial interest in the document being acknowledged and is not named in the document.

(B) A notary public who violates this section by failing to obtain the satisfactory evidence required by subparagraph (A) shall be subject to a civil penalty not exceeding ten thousand dollars ($10,000). An action to impose this civil penalty may be brought by the Secretary of State in an administrative proceeding or any public prosecutor in superior court, and shall be enforced as a civil judgment. A public prosecutor shall inform the secretary of any civil penalty imposed under this subparagraph.

(2) The oath or affirmation under penalty of perjury of two credible witnesses, whose identities are proven to the officer upon the presentation of any document satisfying the requirements of paragraph (3) or (4), that each statement in paragraph (1) of this subdivision is true.

(3) Reasonable reliance on the presentation to the officer of any one of the following, if the document is current or has been issued within five years:

(A) An identification card or driver's license issued by the California Department of Motor Vehicles.

(B) A passport issued by the Department of State of the United States.

(4) Reasonable reliance on the presentation of any one of the following, provided that a document specified in subparagraphs (A) to (E), inclusive, shall either be current or have been issued within five years and shall contain a photograph and description of the person named on it, shall be signed by the person, shall bear a serial or other identifying number, and, in the event that the document is a passport, shall have been stamped by the United States Immigration and Naturalization Service:

(A) A passport issued by a foreign government.

(B) A driver's license issued by a state other than California or by a Canadian or Mexican public agency authorized to issue drivers' licenses.

(C) An identification card issued by a state other than California.

(D) An identification card issued by any branch of the Armed Forces of the United States.

(E) An inmate identification card issued on or after January 1, 1988, by the Department of Corrections and Rehabilitation, if the inmate is in custody.

(F) An inmate identification card issued prior to January 1, 1988, by the Department of Corrections and Rehabilitation, if the inmate is in custody.

(c) An officer who has taken an acknowledgment pursuant to this section shall be presumed to have operated in accordance with the provisions of law.

(d) Any party who files an action for damages based on the failure of the officer to establish the proper identity of the person making the acknowledgment shall have the burden of proof in establishing the negligence or misconduct of the officer.

(e) Any person convicted of perjury under this section shall forfeit any financial interest in the document.

SEC. 2. Section 1189 of the Civil Code is amended to read:

1189. (a) (1) Any certificate of acknowledgment taken within this state shall be in the following form:

State of California)
County of _____)

On _____ before me, (here insert name and title of the officer), personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

(2) A notary public who willfully states as true any material fact that he or she knows to be false shall be subject to a civil penalty not exceeding ten thousand dollars ($10,000). An action to impose a civil penalty under this subdivision may be brought by the Secretary of State in an administrative proceeding or any public prosecutor in superior

court, and shall be enforced as a civil judgment. A public prosecutor shall inform the secretary of any civil penalty imposed under this section.

(b) Any certificate of acknowledgment taken in another place shall be sufficient in this state if it is taken in accordance with the laws of the place where the acknowledgment is made.

(c) On documents to be filed in another state or jurisdiction of the United States, a California notary public may complete any acknowledgment form as may be required in that other state or jurisdiction on a document, provided the form does not require the notary to determine or certify that the signer holds a particular representative capacity or to make other determinations and certifications not allowed by California law.

(d) An acknowledgment provided prior to January 1, 1993, and conforming to applicable provisions of former Sections 1189, 1190, 1190a, 1190.1, 1191, and 1192, as repealed by Chapter 335 of the Statutes of 1990, shall have the same force and effect as if those sections had not been repealed.

SEC. 3. Section 6203 of the Government Code is amended to read:

6203. (a) Every officer authorized by law to make or give any certificate or other writing is guilty of a misdemeanor if he or she makes and delivers as true any certificate or writing containing statements which he or she knows to be false.

(b) Notwithstanding any other limitation of time described in Section 802 of the Penal Code, or any other provision of law, prosecution for a violation of this offense shall be commenced within four years after discovery of the commission of the offense, or within four years after the completion of the offense, whichever is later.

(c) The penalty provided by this section is not an exclusive remedy, and does not affect any other relief or remedy provided by law.

SEC. 4. Section 8201.1 of the Government Code is amended to read:

8201.1. (a) Prior to granting an appointment as a notary public, the Secretary of State shall determine that the applicant possesses the required honesty, credibility, truthfulness, and integrity to fulfill the responsibilities of the position. To assist in determining the identity of the applicant and whether the applicant has been convicted of a disqualifying crime specified in subdivision (b) of Section 8214.1, the Secretary of State shall require that applicants be fingerprinted.

(b) Applicants shall submit to the Department of Justice fingerprint images and related information required by the department for the purpose of obtaining information as to the existence and content of a record of state and federal convictions and arrests and information as to the existence and content of a record of state and federal arrests for which

the department establishes that the person is free on bail, or on his or her recognizance, pending trial or appeal.

(c) The department shall forward the fingerprint images and related information received pursuant to subdivision (a) to the Federal Bureau of Investigation and request a federal summary of criminal information.

(d) The department shall review the information returned from the Federal Bureau of Investigation and compile and disseminate a response to the Secretary of State pursuant to paragraph (1) of subdivision (p) of Section 11105 of the Penal Code.

(e) The Secretary of State shall request from the department subsequent arrest notification service, pursuant to Section 11105.2 of the Penal Code, for each person who submitted information pursuant to subdivision (a).

(f) The department shall charge a fee sufficient to cover the cost of processing the requests described in this section.

SEC. 5. Section 8201.2 of the Government Code is amended to read:

8201.2. (a) The Secretary of State shall review the course of study proposed by any vendor to be offered pursuant to paragraph (3) of subdivision (a) and paragraph (2) of subdivision (b) of Section 8201. If the course of study includes all material that a person is expected to know to satisfactorily complete the written examination required pursuant to paragraph (4) of subdivision (a) of Section 8201, the Secretary of State shall approve the course of study.

(b) (1) The Secretary of State shall, by regulation, prescribe an application form and adopt a certificate of approval for the notary public education course of study proposed by a vendor.

(2) The Secretary of State may also provide a notary public education course of study.

(c) The Secretary of State shall compile a list of all persons offering an approved course of study pursuant to subdivision (a) and shall provide the list with every booklet of the laws of California relating to notaries public distributed by the Secretary of State.

(d) (1) A person who provides notary public education and violates any of the regulations adopted by the Secretary of State for approved vendors is subject to a civil penalty not to exceed one thousand dollars ($1,000) for each violation and shall be required to pay restitution where appropriate.

(2) The local district attorney, city attorney, or the Attorney General may bring a civil action to recover the civil penalty prescribed pursuant to this subdivision. A public prosecutor shall inform the Secretary of State of any civil penalty imposed under this section.

SEC. 6. Section 8201.5 of the Government Code is amended to read:

8201.5. The Secretary of State shall require an applicant for appointment and commission as a notary public to complete an application form and submit a photograph of their person as prescribed by the Secretary of State. Information on this form filed by an applicant with the Secretary of State, except for his or her name and address, is confidential and no individual record shall be divulged by an official or employee having access to it to any person other than the applicant, his or her authorized representative, or an employee or officer of the federal government, the state government, or a local agency, as defined in subdivision (b) of Section 6252 of the Government Code, acting in his or her official capacity. That information shall be used by the Secretary of State for the sole purpose of carrying out the duties of this chapter.

SEC. 7. Section 8202 of the Government Code is amended to read:

8202. (a) When executing a jurat, a notary shall administer an oath or affirmation to the affiant and shall determine, from satisfactory evidence as described in Section 1185 of the Civil Code, that the affiant is the person executing the document. The affiant shall sign the document in the presence of the notary.

(b) To any affidavit subscribed and sworn to before a notary, there shall be attached a jurat in the following form:

State of California
County of _____

Subscribed and sworn to (or affirmed) before me on this _____ day of _____, 20__, by _____, proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

Seal_____

Signature_____

SEC. 8. Section 8206 of the Government Code is amended to read:

8206. (a) (1) A notary public shall keep one active sequential journal at a time, of all official acts performed as a notary public. The journal shall be kept in a locked and secured area, under the direct and exclusive control of the notary. Failure to secure the journal shall be cause for the Secretary of State to take administrative action against the commission held by the notary public pursuant to Section 8214.1.

(2) The journal shall be in addition to and apart from any copies of notarized documents that may be in the possession of the notary public and shall include all of the following:

(A) Date, time, and type of each official act.

(B) Character of every instrument sworn to, affirmed, acknowledged, or proved before the notary.

(C) The signature of each person whose signature is being notarized.

(D) A statement as to whether the identity of a person making an acknowledgment or taking an oath or affirmation was based on satisfactory evidence. If identity was established by satisfactory evidence pursuant to Section 1185 of the Civil Code, then the journal shall contain the signature of the credible witness swearing or affirming to the identity of the individual or the type of identifying document, the governmental agency issuing the document, the serial or identifying number of the document, and the date of issue or expiration of the document.

(E) If the identity of the person making the acknowledgment or taking the oath or affirmation was established by the oaths or affirmations of two credible witnesses whose identities are proven upon the presentation of satisfactory evidence, the type of identifying documents, the identifying numbers of the documents and the dates of issuance or expiration of the documents presented by the witnesses to establish their identity.

(F) The fee charged for the notarial service.

(G) If the document to be notarized is a deed, quitclaim deed, deed of trust affecting real property, or a power of attorney document, the notary public shall require the party signing the document to place his or her right thumbprint in the journal. If the right thumbprint is not available, then the notary shall have the party use his or her left thumb, or any available finger and shall so indicate in the journal. If the party signing the document is physically unable to provide a thumbprint or fingerprint, the notary shall so indicate in the journal and shall also provide an explanation of that physical condition. This paragraph shall not apply to a trustee's deed resulting from a decree of foreclosure or a nonjudicial foreclosure pursuant to Section 2924 of the Civil Code, nor to a deed of reconveyance.

(b) If a sequential journal of official acts performed by a notary public is stolen, lost, misplaced, destroyed, damaged, or otherwise rendered unusable as a record of notarial acts and information, the notary public shall immediately notify the Secretary of State by certified or registered mail. The notification shall include the period of the journal entries, the notary public commission number, and the expiration date of the commission, and when applicable, a photocopy of any police report that specifies the theft of the sequential journal of official acts.

(c) Upon written request of any member of the public, which request shall include the name of the parties, the type of document, and the month and year in which notarized, the notary shall supply a photostatic copy

of the line item representing the requested transaction at a cost of not more than thirty cents ($0.30) per page.

(d) The journal of notarial acts of a notary public is the exclusive property of that notary public, and shall not be surrendered to an employer upon termination of employment, whether or not the employer paid for the journal, or at any other time. The notary public shall not surrender the journal to any other person, except the county clerk, pursuant to Section 8209, or immediately, or if the journal is not present then as soon as possible, upon request to a peace officer investigating a criminal offense who has reasonable suspicion to believe the journal contains evidence of a criminal offense, as defined in Sections 830.1, 830.2, and 830.3 of the Penal Code, acting in his or her official capacity and within his or her authority. If the peace officer seizes the notary journal, he or she must have probable cause as required by the laws of this state and the United States. A peace officer or law enforcement agency that seizes a notary journal shall notify the Secretary of State by facsimile within 24 hours, or as soon possible thereafter, of the name of the notary public whose journal has been seized. The notary public shall obtain a receipt for the journal, and shall notify the Secretary of State by certified mail within 10 days that the journal was relinquished to a peace officer. The notification shall include the period of the journal entries, the commission number of the notary public, the expiration date of the commission, and a photocopy of the receipt. The notary public shall obtain a new sequential journal. If the journal relinquished to a peace officer is returned to the notary public and a new journal has been obtained, the notary public shall make no new entries in the returned journal. A notary public who is an employee shall permit inspection and copying of journal transactions by a duly designated auditor or agent of the notary public's employer, provided that the inspection and copying is done in the presence of the notary public and the transactions are directly associated with the business purposes of the employer. The notary public, upon the request of the employer, shall regularly provide copies of all transactions that are directly associated with the business purposes of the employer, but shall not be required to provide copies of any transaction that is unrelated to the employer's business. Confidentiality and safekeeping of any copies of the journal provided to the employer shall be the responsibility of that employer.

(e) The notary public shall provide the journal for examination and copying in the presence of the notary public upon receipt of a subpoena duces tecum or a court order, and shall certify those copies if requested.

(f) Any applicable requirements of, or exceptions to, state and federal law shall apply to a peace officer engaged in the search or seizure of a sequential journal.

SEC. 9. Section 8213.5 of the Government Code is amended to read:

8213.5. A notary public shall notify the Secretary of State by certified mail within 30 days as to any change in the location or address of the principal place of business or residence. A notary public shall not use a commercial mail receiving agency or post office box as his or her principal place of business or residence, unless the notary public also provides the Secretary of State with a physical street address as the principal place of residence. Willful failure to notify the Secretary of State of a change of address shall be punishable as an infraction by a fine of not more than five hundred dollars ($500).

SEC. 10. Section 8213.6 of the Government Code is amended to read:

8213.6. If a notary public changes his or her name, the notary public shall complete an application for name change form and file that application with the Secretary of State. Information on this form shall be subject to the confidentiality provisions described in Section 8201.5. Upon approval of the name change form, the Secretary of State shall issue a commission that reflects the new name of the notary public. The term of the commission and commission number shall remain the same. Willful failure to notify the Secretary of State of a name change shall be punishable as an infraction by a fine of not more than five hundred dollars ($500).

SEC. 11. Section 8214.1 of the Government Code is amended to read:

8214.1. The Secretary of State may refuse to appoint any person as notary public or may revoke or suspend the commission of any notary public upon any of the following grounds:

(a) Substantial and material misstatement or omission in the application submitted to the Secretary of State to become a notary public.

(b) Conviction of a felony, a lesser offense involving moral turpitude, or a lesser offense of a nature incompatible with the duties of a notary public. A conviction after a plea of nolo contendere is deemed to be a conviction within the meaning of this subdivision.

(c) Revocation, suspension, restriction, or denial of a professional license, if the revocation, suspension, restriction, or denial was for misconduct based on dishonesty, or for any cause substantially relating to the duties or responsibilities of a notary public.

(d) Failure to discharge fully and faithfully any of the duties or responsibilities required of a notary public.

(e) When adjudicated liable for damages in any suit grounded in fraud, misrepresentation, or for a violation of the state regulatory laws, or in any suit based upon a failure to discharge fully and faithfully the duties as a notary public.

(f) The use of false or misleading advertising wherein the notary public has represented that the notary public has duties, rights, or privileges that he or she does not possess by law.

(g) The practice of law in violation of Section 6125 of the Business and Professions Code.

(h) Charging more than the fees prescribed by this chapter.

(i) Commission of any act involving dishonesty, fraud, or deceit with the intent to substantially benefit the notary public or another, or substantially injure another.

(j) Failure to complete the acknowledgment at the time the notary's signature and seal are affixed to the document.

(k) Failure to administer the oath or affirmation as required by paragraph (3) of subdivision (a) of Section 8205.

(*l*) Execution of any certificate as a notary public containing a statement known to the notary public to be false.

(m) Violation of Section 8223.

(n) Failure to submit any remittance payable upon demand by the Secretary of State under this chapter or failure to satisfy any court-ordered money judgment, including restitution.

(o) Failure to secure the sequential journal of official acts, pursuant to Section 8206, or the official seal, pursuant to Section 8207, or willful failure to report the theft or loss of the sequential journal, pursuant to subdivision (b) of Section 8206.

(p) Violation of Section 8219.5.

(q) Commission of an act in violation of Section 6203, 8214.2, 8225, or 8227.3 of the Government Code or of Section 115, 470, 487, or 530.5 of the Penal Code.

(r) Willful failure to provide access to the sequential journal of official acts upon request by a peace officer.

SEC. 12. Section 8214.2 of the Government Code is amended to read:

8214.2. (a) A notary public who knowingly and willfully with intent to defraud performs any notarial act in relation to a deed of trust on real property consisting of a single-family residence containing not more than four dwelling units, with knowledge that the deed of trust contains any false statements or is forged, in whole or in part, is guilty of a felony.

(b) The penalty provided by this section is not an exclusive remedy and does not affect any other relief or remedy provided by law.

SEC. 13. Section 8214.15 of the Government Code is amended to read:

8214.15. (a) In addition to any commissioning or disciplinary sanction, a violation of subdivision (f), (i), (*l*), (m), or (p) of Section

8214.1 is punishable by a civil penalty not to exceed one thousand five hundred dollars ($1,500).

(b) In addition to any commissioning or disciplinary sanction, a violation of subdivision (h), (j), or (k) of Section 8214.1, or a negligent violation of subdivision (d) of Section 8214.1 is punishable by a civil penalty not to exceed seven hundred fifty dollars ($750).

(c) The civil penalty may be imposed by the Secretary of State if a hearing is not requested pursuant to Section 8214.3. If a hearing is requested, the hearing officer shall make the determination.

(d) Any civil penalties collected pursuant to this section shall be transferred to the General Fund. It is the intent of the Legislature that to the extent General Fund moneys are raised by penalties collected pursuant to this section, that money shall be made available to the Secretary of State's office to defray its costs of investigating and pursuing commissioning and monetary remedies for violations of the notary public law.

SEC. 14. Section 8214.21 is added to the Government Code, to read:

8214.21. A notary public who willfully fails to provide access to the sequential journal of notarial acts when requested by a peace officer shall be subject to a civil penalty not exceeding two thousand five hundred dollars ($2,500). An action to impose a civil penalty under this subdivision may be brought by the Secretary of State in an administrative proceeding or any public prosecutor in superior court, and shall be enforced as a civil judgment. A public prosecutor shall inform the secretary of any civil penalty imposed under this section.

SEC. 15. Section 8214.23 is added to the Government Code, to read:

8214.23. (a) A notary public who fails to obtain a thumbprint, as required by Section 8206, from a party signing a document shall be subject to a civil penalty not exceeding two thousand five hundred dollars ($2,500). An action to impose a civil penalty under this subdivision may be brought by the Secretary of State in an administrative proceeding or any public prosecutor in superior court, and shall be enforced as a civil judgment. A public prosecutor shall inform the secretary of any civil penalty imposed under this section.

(b) Notwithstanding any other limitation of time described in Section 802 of the Penal Code, or any other provision of law, prosecution for a violation of this offense shall be commenced within four years after discovery of the commission of the offense, or within four years after the completion of the offense, whichever is later.

SEC. 16. Section 8221 of the Government Code is amended to read:

8221. (a) If any person shall knowingly destroy, deface, or conceal any records or papers belonging to the office of a notary public, such person shall be guilty of a misdemeanor and be liable in a civil action

for damages to any person injured as a result of such destruction, defacing, or concealment.

(b) Notwithstanding any other limitation of time described in Section 802 of the Penal Code, or any other provision of law, prosecution for a violation of this offense shall be commenced within four years after discovery of the commission of the offense, or within four years after the completion of the offense, whichever is later.

(c) The penalty provided by this section is not an exclusive remedy and does not affect any other relief or remedy provided by law.

SEC. 17. Section 8225 of the Government Code is amended to read:

8225. (a) Any person who solicits, coerces, or in any manner influences a notary public to perform an improper notarial act knowing that act to be an improper notarial act, including any act required of a notary public under Section 8206, shall be guilty of a misdemeanor.

(b) Notwithstanding any other limitation of time described in Section 802 of the Penal Code, or any other provision of law, prosecution for a violation of this offense shall be commenced within four years after discovery of the commission of the offense, or within four years after the completion of the offense, whichever is later.

(c) The penalty provided by this section is not an exclusive remedy, and does not affect any other relief or remedy provided by law.

SEC. 18. Section 8228 of the Government Code is amended to read:

8228. The Secretary of State or a peace officer, as defined in Sections 830.1, 830.2, and 830.3 of the Penal Code, possessing reasonable suspicion and acting in his or her official capacity and within his or her authority, may enforce the provisions of this chapter through the examination of a notary public's books, records, letters, contracts, and other pertinent documents relating to the official acts of the notary public.

SEC. 19. Section 8228.1 of the Government Code is amended to read:

8228.1. (a) Any notary public who willfully fails to perform any duty required of a notary public under Section 8206, or who willfully fails to keep the seal of the notary public under the direct and exclusive control of the notary public, or who surrenders the seal of the notary public to any person not otherwise authorized by law to possess the seal of the notary, shall be guilty of a misdemeanor.

(b) Notwithstanding any other limitation of time described in Section 802 of the Penal Code or any other provision of law, prosecution for a violation of this offense shall be commenced within four years after discovery of the commission of the offense, or within four years after the completion of the offense, whichever is later.

(c) The penalty provided by this section is not an exclusive remedy, and does not affect any other relief or remedy provided by law.

SEC. 20. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CHAPTER 400

An act to add Article 6 (commencing with Section 8692) to Chapter 7.5 of Division 1 of Title 2 of the Government Code, relating to emergency services, and making an appropriation therefor.

[Approved by Governor October 10, 2007. Filed with Secretary of State October 10, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Article 6 (commencing with Section 8692) is added to Chapter 7.5 of Division 1 of Title 2 of the Government Code, to read:

Article 6. Nonprofit Organizations

8692. (a) If a state of emergency is proclaimed, an eligible private nonprofit organization may receive state assistance for distribution of supplies and other disaster or emergency assistance activities resulting in extraordinary cost.

(b) A private nonprofit organization is eligible for assistance under this section if it is eligible for disaster assistance under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. Sec. 5121).

(c) An organization is not eligible for assistance under this section if it employs religious content in the provision of emergency assistance.

(d) Any grant of assistance under this section shall comply with Section 4 of Article I and Section 5 of Article XVI of the California Constitution, state and federal civil rights laws, and the First Amendment to the United States Constitution in regard to the funding of religious organizations and activities. These legal constraints include prohibitions on the discrimination against beneficiaries and staff based on protected categories, on the use of public funds for proselytizing of religious

doctrine, religious instruction, or worship, and on the use of other religious means to accomplish programmatic goals.

(e) The Office of Emergency Services shall adopt regulations to implement this section.

CHAPTER 401

An act to add Section 146g to the Penal Code, relating to crime information.

[Approved by Governor October 10, 2007. Filed with Secretary of State October 10, 2007.]

The people of the State of California do enact as follows:

SECTION 1. (a) A fair and just criminal justice system and the public's faith and trust in the administration of California's criminal justice system is necessary for an orderly and law-abiding society.

(b) The public demands that the integrity of peace officers, officers of the court, and court employees be above reproach. Peace officers, court officers, and court employees must, therefore, avoid any conduct that might compromise their integrity and thus undercut the public's confidence in California's criminal justice system.

(c) Peace officers, officers of the court, and court employees must not receive private or special advantage from their official status by selling or furnishing information gathered during the scope of a criminal investigation or from access to a secure law enforcement or court facility.

(d) Members of the public have a right to security and privacy, and information obtained about them must not be improperly divulged.

(e) Peace officers, officers of the court, or court employees who sell confidential information obtained during the course of a law enforcement investigation reduce the public's confidence and faith in our criminal justice system.

SEC. 2. Section 146g is added to the Penal Code, to read:

146g. (a) Any peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, any employee of a law enforcement agency, any attorney as defined in Section 6125 of the Business and Professions Code employed by a governmental agency, or any trial court employee as defined in Section 71601 of the Government Code, who does either of the following is guilty of a misdemeanor punishable by a fine not to exceed one thousand dollars ($1,000):

(1) Discloses, for financial gain, information obtained in the course of a criminal investigation, the disclosure of which is prohibited by law.

(2) Solicits, for financial gain, the exchange of information obtained in the course of a criminal investigation, the disclosure of which is prohibited by law.

(b) Any person who solicits any other person described in subdivision (a) for the financial gain of the person described in subdivision (a) to disclose information obtained in the course of a criminal investigation, with the knowledge that the disclosure is prohibited by law, is guilty of a misdemeanor, punishable by a fine not to exceed one thousand dollars ($1,000).

(c) (1) Any person described in subdivision (a) who, for financial gain, solicits or sells any photograph or video taken inside any secure area of a law enforcement or court facility, the taking of which was not authorized by the law enforcement or court facility administrator, is guilty of a misdemeanor punishable by a fine not to exceed one thousand dollars ($1,000).

(2) Any person who solicits any person described in subdivision (a) for financial gain to the person described in subdivision (a) to disclose any photograph or video taken inside any secure area of a law enforcement or court facility, the taking of which was not authorized by the law enforcement or court facility administrator, is guilty of a misdemeanor punishable by a fine not to exceed one thousand dollars ($1,000).

(d) Upon conviction of, and in addition to, any other penalty prescribed by this section, the defendant shall forfeit any monetary compensation received in the commission of a violation of this section and the money shall be deposited in the Victim Restitution Fund.

(e) Nothing in this section shall apply to officially sanctioned information, photographs, or video, or to information, photographs, or video obtained or distributed pursuant to the California Whistleblower Protection Act or the Local Government Disclosure of Information Act.

(f) This section shall not be construed to limit or prevent prosecution pursuant to any other applicable provision of law.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes

the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CHAPTER 402

An act to amend Sections 6403, 22351, and 22452 of the Business and Professions Code, and to amend Sections 1815, 12070, and 12073 of the Insurance Code, relating to public records.

[Approved by Governor October 10, 2007. Filed with Secretary of State October 10, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 6403 of the Business and Professions Code is amended to read:

6403. (a) The application for registration of a natural person shall contain all of the following statements about the applicant:

(1) Name, age, address, and telephone number.

(2) Whether he or she has been convicted of a felony, or of a misdemeanor under Section 6126 or 6127, or found liable under Section 6126.5.

(3) Whether he or she has been held liable in a civil action by final judgment or entry of a stipulated judgment, if the action alleged fraud, the use of an untrue or misleading representation, or the use of an unfair, unlawful, or deceptive business practice.

(4) Whether he or she has ever been convicted of a misdemeanor violation of this chapter.

(5) Whether he or she has had a civil judgment entered against him or her in an action arising out of the applicant's negligent, reckless, or willful failure to properly perform his or her obligation as a legal document assistant or unlawful detainer assistant.

(6) Whether he or she has had a registration revoked pursuant to Section 6413.

(7) Whether this is a primary or secondary registration. If it is a secondary registration, the county in which the primary registration is filed.

(b) The application for registration of a natural person shall be accompanied by the display of personal identification, such as a California driver's license, birth certificate, or other identification acceptable to the county clerk to adequately determine the identity of the applicant.

(c) The application for registration of a partnership or corporation shall contain all of the following statements about the applicant:

(1) The names, ages, addresses, and telephone numbers of the general partners or officers.

(2) Whether the general partners or officers have ever been convicted of a felony, or a misdemeanor under Section 6126 or 6127, or found liable under Section 6126.5.

(3) Whether the general partners or officers have ever been held liable in a civil action by final judgment or entry of a stipulated judgment, if the action alleged fraud, the use of an untrue or misleading representation, or the use of an unfair, unlawful, or deceptive business practice.

(4) Whether the general partners or officers have ever been convicted of a misdemeanor violation of this chapter.

(5) Whether the general partners or officers have had a civil judgment entered against them in an action arising out of a negligent, reckless, or willful failure to properly perform the obligations of a legal document assistant or unlawful detainer assistant.

(6) Whether the general partners or officers have ever had a registration revoked pursuant to Section 6413.

(7) Whether this is a primary or secondary registration. If it is a secondary registration, the county in which the primary registration is filed.

(d) The applications made under this section shall be made under penalty of perjury.

(e) The county clerk shall retain the application for registration for a period of three years following the expiration date of the application, after which time the application may be destroyed if it is scanned or if the conditions specified in Section 26205.1 of the Government Code are met. If the application is scanned, the scanned image shall be retained for a period of 10 years, after which time that image may be destroyed and, notwithstanding Section 26205.1 of the Government Code, no reproduction thereof need be made or preserved.

SEC. 2. Section 22351 of the Business and Professions Code is amended to read:

22351. (a) The certificate of registration of a registrant who is a natural person shall contain the following:

(1) The name, age, address, and telephone number of the registrant.

(2) A statement, signed by the registrant under penalty of perjury, that the registrant has not been convicted of a felony, or, if the registrant has been convicted of a felony, a copy of a certificate of rehabilitation, expungement, or pardon.

(3) A statement that the registrant has been a resident of this state for a period of one year immediately preceding the filing of the certificate.

(4) A statement that the registrant will perform his or her duties as a process server in compliance with the provisions of law governing the service of process in this state.

(b) The certificate of registration of a registrant who is a partnership or corporation shall contain the following:

(1) The names, ages, addresses, and telephone numbers of the general partners or officers.

(2) A statement, signed by the general partners or officers under penalty of perjury, that the general partners or officers have not been convicted of a felony.

(3) A statement that the partnership or corporation has been organized and existing continuously for a period of one year immediately preceding the filing of the certificate or a responsible managing employee, partner, or officer has been previously registered under this chapter.

(4) A statement that the partnership or corporation will perform its duties as a process server in compliance with the provisions of law governing the service of process in this state.

(c) The county clerk shall retain the certificate of registration for a period of three years following the expiration date of the certificate, after which time the certificate may be destroyed if it is scanned or if the conditions specified in Section 26205.1 of the Government Code are met. If the certificate is scanned, the scanned image shall be retained for a period of 10 years, after which time that image may be destroyed and, notwithstanding Section 26205.1 of the Government Code, no reproduction thereof need be made or preserved.

SEC. 3. Section 22452 of the Business and Professions Code is amended to read:

22452. (a) The application for registration of a natural person shall contain all of the following statements about the applicant:

(1) Name, age, address, and telephone number.

(2) He or she has not been convicted of a felony.

(3) He or she will perform his or her duties as a professional photocopier in compliance with the provisions of law governing the transmittal of confidential documentary information in this state.

(b) The application for registration of a partnership or corporation shall contain all of the following statements about the applicant:

(1) The names, ages, addresses, and telephone numbers of the general partners or officers.

(2) The general partners or officers have not been convicted of a felony.

(3) The partnership or corporation will perform its duties as a professional photocopier in compliance with the provisions of law

governing the transmittal of confidential documentary information in this state.

(c) The county clerk shall retain the application for registration for a period of three years following the expiration date of the application, after which time the application may be destroyed if it is scanned or if the conditions specified in Section 26205.1 of the Government Code are met. If the application is scanned, the scanned image shall be retained for a period of 10 years, after which time that image may be destroyed and, notwithstanding Section 26205.1 of the Government Code, no reproduction thereof need be made or preserved.

SEC. 4. Section 1815 of the Insurance Code is amended to read:

1815. (a) The commissioner shall certify the names of holders of bail agents' and bail permittees' licenses and their solicitors to every county clerk of the state, together with their license numbers and any other information in respect to the persons as he or she considers advisable. He or she shall promptly upon termination, for any cause, of any license, notify the respective county clerks.

(b) The county clerk shall retain these records for a period of two years, after which time the active bail licensee list and updates may be destroyed and, notwithstanding Section 26205.1 of the Government Code, no reproduction thereof need be made or preserved.

SEC. 5. Section 12070 of the Insurance Code is amended to read:

12070. (a) The commissioner shall make up and certify to the county clerk of each county of the state a complete list of all admitted surety insurers. The list shall set forth all of the following:

(1) The full corporate name of the insurer.

(2) The name of the state or country under whose laws the insurer is organized.

(3) The date of the certificate of authority issued to the insurer to transact surety insurance in this state.

(b) The county clerk shall retain these records for a period of two years, after which time the complete list of all admitted surety insurers and updates may be destroyed and, notwithstanding Section 26205.1 of the Government Code, no reproduction thereof need be made or preserved.

SEC. 6. Section 12073 of the Insurance Code is amended to read:

12073. The county clerk shall keep an index or other conveniently arranged record that shall show all admitted surety insurers as certified to him or her by the insurance commissioner and any further information as to those surety insurers as may be certified to the county clerk by the commissioner. The county clerk shall retain these indexes or other conveniently arranged records for a period of two years, after which time the index or records may be destroyed and, notwithstanding Section

26205.1 of the Government Code, no reproduction thereof need be made or preserved.

SEC. 7. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

CHAPTER 403

An act to add Section 1940.3 to the Civil Code, relating to tenancy.

[Approved by Governor October 10, 2007. Filed with Secretary of State October 10, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 1940.3 is added to the Civil Code, to read:

1940.3. (a) No city, county, or city and county shall, by statute, ordinance, or regulation, or by administrative action implementing any statute, ordinance, or regulation, compel a landlord or any agent of the landlord to make any inquiry, compile, disclose, report, or provide any information, prohibit offering or continuing to offer, accommodations in the property for rent or lease, or otherwise take any action regarding or based on the immigration or citizenship status of a tenant, prospective tenant, occupant, or prospective occupant of residential rental property.

(b) No landlord or any agent of the landlord shall do any of the following:

(1) Make any inquiry regarding or based on the immigration or citizenship status of a tenant, prospective tenant, occupant, or prospective occupant of residential rental property.

(2) Require that any tenant, prospective tenant, occupant, or prospective occupant of the rental property make any statement, representation, or certification concerning his or her immigration or citizenship status.

(c) Nothing in this section shall prohibit a landlord from either:

(1) Complying with any legal obligation under federal law.

(2) Requesting information or documentation necessary to determine or verify the financial qualifications of a prospective tenant, or to

determine or verify the identity of a prospective tenant or prospective occupant.

CHAPTER 404

An act to amend Section 706 of, and to add Sections 710 and 711 to, the San Gabriel Basin Water Quality Authority Act (Chapter 776 of the Statutes of 1992), relating to water.

[Approved by Governor October 10, 2007. Filed with Secretary of State October 10, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 706 of the San Gabriel Basin Water Quality Authority Act (Chapter 776 of the Statutes of 1992), as amended by Section 3 of Chapter 192 of the Statutes of 2003, is amended to read:

Sec. 706. (a) Except as provided in this section, this act shall remain in effect only until July 1, 2017, and as of that date is repealed, unless a later enacted statute, which is enacted before July 1, 2017, deletes or extends that date.

(b) Upon the repeal of this act, the assets and debts of the authority shall be administered as follows:

(1) The Los Angeles Regional Water Quality Control Board shall dispose of the property and assets as appropriate. The Los Angeles Regional Water Quality Control Board shall receive reimbursement for actual costs incurred related to the disposition of the property and assets. The cost recovery shall be from the proceeds of the disposition pursuant to this section. The proceeds, if any, of the disposition shall be transferred to the Treasurer to be applied to pay the debts of the authority and, if any proceeds remain, shall be transferred to the Treasurer for deposit in the Hazardous Substance Cleanup Fund for use in financing groundwater contamination investigation and remediation in the basin. Preference shall be given in the disposition of assets of the authority to transfers to producers who may be able to use the assets for the benefit of water distribution systems and to provide for continued operation and maintenance of the assets in order to further the purposes of this act.

(2) The Treasurer shall administer the payment of debts of the authority. The Treasurer shall apply the proceeds from the disposition of assets to the payment of the debts. If debts remain after application of the proceeds from disposition of assets, the Treasurer may continue to collect, in lieu of the authority, the pumping right assessments

authorized under either (A) Section 602 if the debt relates to administrative costs or (B) Section 605 if the debt is to repay warrants, notes, bonds, and other evidences of indebtedness, or both, to make payments pursuant to leases or installment sale agreements in connection with certificates of participation, to pay for operation and maintenance costs of facilities, and to make payments pursuant to any other financial obligations. All provisions set forth in Article 6 (commencing with Section 601) relating to the levy and collection of the pumping right assessments are not repealed and shall continue in effect until the debts of the authority are paid, as determined by the Treasurer, who shall notify the Secretary of State. Upon receipt by the Secretary of State of the Treasurer's notice, Article 6 (commencing with Section 601) is repealed. The Treasurer's authority to levy and collect assessments under this act is limited according to the provisions of this act and shall cease when all debts of the authority have been paid.

SEC. 2. Section 710 is added to the San Gabriel Basin Water Quality Authority Act (Chapter 776 of the Statutes of 1992), to read:

Sec. 710. At least on a quarterly basis, commencing April 1, 2008, the authority shall update its Internet Web site with information regarding its activities undertaken pursuant to the basin groundwater quality management and remediation plan developed and adopted pursuant to Section 406.

SEC. 3. Section 711 is added to the San Gabriel Basin Water Quality Authority Act (Chapter 776 of the Statutes of 1992), to read:

Sec. 711. By March 31, 2008, and every six months thereafter, the authority shall provide a status report on its activities undertaken pursuant to the basin groundwater quality management and remediation plan to the State Water Resources Control Board and the Los Angeles Regional Water Quality Control Board. The status report shall include, at a minimum, all of the following:

(a) Overview of groundwater contamination in the San Gabriel Basin.
(b) Goals for basin groundwater.
(c) Coordination with other agencies.
(d) Public outreach and information.
(e) Funding from potentially responsible parties and other sources.
(f) Status of Non-Operable Unit specific plans.
(g) For each Operable Unit:
(1) Treatment and remediation plans.
(2) Description of contamination plans.
(3) Costs incurred.
(4) Beneficial uses of recovered water.
(5) Projected activities for the next reporting period.

(h) Description of the manner in which projects are prioritized and selected for funding, and the manner in which contractors are selected.

(i) Criteria used to quantitatively evaluate projects for effectiveness.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district are the result of a program for which legislative authority was requested by that local agency or school district, within the meaning of Section 17556 of the Government Code and Section 6 of Article XIII B of the California Constitution.

CHAPTER 405

An act to add Section 11062 to the Penal Code, relating to law enforcement, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 10, 2007. Filed with Secretary of State October 10, 2007.]

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares the following:

(a) There are significant questions regarding the structure, staffing, funding, and workload priorities of California's forensic analysis delivery system. There is also concern that existing law enforcement needs are not being met and that this situation will worsen if not addressed quickly.

(b) Forensic science is an increasingly vital element in the field of law enforcement. This highly specialized work covers at least 10 different specialties and is becoming more sophisticated as our scientific knowledge increases.

(c) Recruitment and retention levels of state criminalists are dwindling as demand for services increases. The state is experiencing a serious shortage of criminalists resulting in a significant backlog in unprocessed DNA samples. This problem will get dramatically worse in 2009 when state law dramatically increases the number of persons subject to DNA testing.

(d) There are no universal standards for certification for criminalists in California nor is there a mandatory requirement that all criminal laboratories meet minimum standards. California currently has 11 Department of Justice crime laboratories providing services to approximately 40 percent of California's law enforcement agencies. The

remaining law enforcement agencies are served by at least 19 local criminal laboratories that fall under the command of a district attorney, sheriff, or police chief.

(e) The creation and growth of crime laboratories in California has evolved over decades without any statewide planning, review, or coordination to maximize the capabilities and effectiveness of these critical assets.

SEC. 2. Section 11062 is added to the Penal Code, to read:

11062. (a) The Department of Justice shall establish and chair a task force to conduct a review of California's crime laboratory system.

(b) The task force shall be known as the "Crime Laboratory Review Task Force." The composition of the task force shall be comprised of a representative of each of the following entities:

(1) The Department of Justice.

(2) The California Association of Crime Laboratory Directors.

(3) The California Association of Criminalists.

(4) The International Association for Identification.

(5) The American Society of Crime Laboratory Directors.

(6) The California Highway Patrol.

(7) The California State Sheriffs Association, from a department with a crime laboratory.

(8) The California District Attorneys Association, from an office with a crime laboratory.

(9) The California Police Chiefs Association, from a department with a crime laboratory.

(10) The California Peace Officers Association.

(11) The California Public Defenders Association.

(12) A private criminal defense attorney organization.

(13) The Judicial Council, to be appointed by the Chief Justice.

(14) The Office of the Speaker of the Assembly.

(15) The Office of the President pro Tempore of the Senate.

(16) Two representatives to be appointed by the Governor.

(c) The task force shall review and make recommendations as to how best to configure, fund, and improve the delivery of state and local crime laboratory services in the future. To the extent feasible, the review and recommendations shall include, but are not limited to, addressing the following issues:

(1) With respect to organization and management of crime laboratory services, consideration of the following:

(A) If the existing mix of state and local crime laboratories is the most effective and efficient means to meet California's future needs.

(B) Whether laboratories should be further consolidated. If consolidation occurs, who should have oversight of crime laboratories.

(C) If management responsibilities for some laboratories should be transferred.

(D) Whether all laboratories should provide similar services.

(E) How other states have addressed similar issues.

(2) With respect to staff and training, consideration of the following:

(A) How to address recruiting and retention problems of laboratory staff.

(B) Whether educational and training opportunities are adequate to supply the needs of fully trained forensic criminalists in the future.

(C) Whether continuing education is available to ensure that forensic science personnel are up-to-date in their fields of expertise.

(D) If crime laboratory personnel should be certified, and if so, the appropriate agency to assume this responsibility.

(E) The future educational role, if any, for the University of California or California State University systems.

(3) With respect to funding, consideration of the following:

(A) Whether the current method of funding laboratories is predictable, stable, and adequate to meet future growth demands and to provide accurate and timely testing results.

(B) The adequacy of salary structures to attract and retain competent analysts and examiners.

(4) With respect to performance standards and equipment, consideration of the following:

(A) Whether workload demands are being prioritized properly and whether there are important workload issues not being addressed.

(B) If existing laboratories have the necessary capabilities, staffing, and equipment.

(C) If statewide standards should be developed for the accreditation of forensic laboratories, including minimum staffing levels, and if so, a determination regarding what entity should serve as the sanctioning body.

(d) The task force shall also seek input from specialized law enforcement disciplines, other state and local agencies, relevant advocacy groups, and the public. The final report shall also include a complete inventory of existing California crime laboratories. This inventory shall contain sufficient details on staffing, workload, budget, major instrumentation, and organizational placement within the controlling agency.

(e) The first meeting of the task force shall occur no later than 60 days after the effective date of this act.

(f) On or before July 1, 2009, the task force shall submit a final report of its findings to the Department of Finance, and to the budget and public safety committees of both houses.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

Given the importance of combating crime in the state in the most efficient and expeditious manner possible, it is necessary that this act take effect immediately.

CHAPTER 406

An act to add Section 11713.22 to the Vehicle Code, relating to vehicles.

[Approved by Governor October 10, 2007. Filed with Secretary of State October 10, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 11713.22 is added to the Vehicle Code, to read:

11713.22. (a) Upon mutual agreement of the parties to enter into a dealer agreement, it is unlawful and a violation of this code for a manufacturer, manufacturer branch, distributor, or distributor branch licensed under this code to fail or refuse to provide a recreational vehicle dealer a written dealer agreement that complies with the requirements of Section 331.

(b) An agreement described in subdivision (a) shall include, but not be limited to, provisions regarding dealership transfer, dealership termination, sales territory, and reimbursement for costs incurred by the dealer for work related to the manufacturer's warranty for each line-make of recreational vehicle covered by the agreement.

(c) This section applies only to a dealer and manufacturer agreement involving recreational vehicles, as defined in subdivision (a) of Section 18010 of the Health and Safety Code, but does not include an agreement with a dealer who deals exclusively in truck campers.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the

definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CHAPTER 407

An act to add Section 1656.5 to the Vehicle Code, relating to vehicles.

[Approved by Governor October 10, 2007. Filed with Secretary of State October 10, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 1656.5 is added to the Vehicle Code, to read:

1656.5. (a) The Legislature finds that the department, by virtue of its interaction with millions of California drivers and vehicle owners each year, represents a valuable resource for the disbursement of important public safety and consumer information.

(b) The department may enter into a contract with a private vendor for the purpose of acquiring and utilizing message display systems. These systems may be used on the department's mailings or other property owned, leased, or controlled by the department. The information displayed shall be of appropriate benefit to the motoring public and the state's consumers, as determined by the department.

(c) A vendor under contract with the department may utilize a portion of the available time and space on the display systems that it provides for the purpose of advertising products or services. The advertising on a message display system shall not exceed 15 minutes in a 60-minute period. The extent of the access shall be established under the terms of the contract.

(d) The department shall determine whether a vendor's advertised product or service is consistent with and appropriate to the best interests of the motoring public. The department shall not enter into a contract with a vendor whose advertised product or service the department determines is not consistent with or appropriate to the best interests of the motoring public.

CHAPTER 408

An act to amend Section 186.11 of the Penal Code, relating to crime.

[Approved by Governor October 10, 2007. Filed with
Secretary of State October 10, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 186.11 of the Penal Code is amended to read:

186.11. (a) (1) Any person who commits two or more related felonies, a material element of which is fraud or embezzlement, which involve a pattern of related felony conduct, and the pattern of related felony conduct involves the taking of, or results in the loss by another person or entity of, more than one hundred thousand dollars ($100,000), shall be punished, upon conviction of two or more felonies in a single criminal proceeding, in addition and consecutive to the punishment prescribed for the felony offenses of which he or she has been convicted, by an additional term of imprisonment in the state prison as specified in paragraph (2) or (3). This enhancement shall be known as the aggravated white collar crime enhancement. The aggravated white collar crime enhancement shall only be imposed once in a single criminal proceeding. For purposes of this section, "pattern of related felony conduct" means engaging in at least two felonies that have the same or similar purpose, result, principals, victims, or methods of commission, or are otherwise interrelated by distinguishing characteristics, and that are not isolated events. For purposes of this section, "two or more related felonies" means felonies committed against two or more separate victims, or against the same victim on two or more separate occasions.

(2) If the pattern of related felony conduct involves the taking of, or results in the loss by another person or entity of, more than five hundred thousand dollars ($500,000), the additional term of punishment shall be two, three, or five years in the state prison.

(3) If the pattern of related felony conduct involves the taking of, or results in the loss by another person or entity of, more than one hundred thousand dollars ($100,000), but not more than five hundred thousand dollars ($500,000), the additional term of punishment shall be the term specified in paragraph (1) or (2) of subdivision (a) of Section 12022.6.

(b) (1) The additional prison term and penalties provided for in subdivisions (a), (c), and (d) shall not be imposed unless the facts set forth in subdivision (a) are charged in the accusatory pleading and admitted or found to be true by the trier of fact.

(2) The additional prison term provided in paragraph (2) of subdivision (a) shall be in addition to any other punishment provided by law, including Section 12022.6, and shall not be limited by any other provision of law.

(c) Any person convicted of two or more felonies, as specified in subdivision (a), shall also be liable for a fine not to exceed five hundred thousand dollars ($500,000) or double the value of the taking, whichever is greater, if the existence of facts that would make the person subject to the aggravated white collar crime enhancement have been admitted or found to be true by the trier of fact. However, if the pattern of related felony conduct involves the taking of more than one hundred thousand dollars ($100,000), but not more than five hundred thousand dollars ($500,000), the fine shall not exceed one hundred thousand dollars ($100,000) or double the value of the taking, whichever is greater.

(d) Any person convicted of two or more felonies, as specified in subdivision (a), shall be liable for the costs of restitution to victims of the pattern of fraudulent or unlawful conduct, if the existence of facts that would make the person subject to the aggravated white collar crime enhancement have been admitted or found to be true by the trier of fact.

(e) (1) If a person is alleged to have committed two or more felonies, as specified in subdivision (a), and the aggravated white collar crime enhancement is also charged, any asset or property that is in the control of that person, and any asset or property that has been transferred by that person to a third party, subsequent to the commission of any criminal act alleged pursuant to subdivision (a), other than in a bona fide purchase, whether found within or outside the state, may be preserved by the superior court in order to pay restitution and fines imposed pursuant to this section. Upon conviction of two or more felonies, as specified in subdivision (a), this property may be levied upon by the superior court to pay restitution and fines imposed pursuant to this section if the existence of facts that would make the person subject to the aggravated white collar crime enhancement have been admitted or found to be true by the trier of fact.

(2) To prevent dissipation or secreting of assets or property, the prosecuting agency may, at the same time as or subsequent to the filing of a complaint or indictment charging two or more felonies, as specified in subdivision (a), and the enhancement specified in subdivision (a), file a petition with the criminal division of the superior court of the county in which the accusatory pleading was filed, seeking a temporary restraining order, preliminary injunction, the appointment of a receiver, or any other protective relief necessary to preserve the property or assets. This petition shall commence a proceeding that shall be pendent to the criminal proceeding and maintained solely to affect the criminal remedies provided for in this section. The proceeding shall not be subject to or governed by the provisions of the Civil Discovery Act as set forth in Title 4 (commencing with Section 2016.010) of Part 4 of the Code of Civil Procedure. The petition shall allege that the defendant has been

charged with two or more felonies, as specified in subdivision (a), and is subject to the aggravated white collar crime enhancement specified in subdivision (a). The petition shall identify that criminal proceeding and the assets and property to be affected by an order issued pursuant to this section.

(3) A notice regarding the petition shall be provided, by personal service or registered mail, to every person who may have an interest in the property specified in the petition. Additionally, the notice shall be published for at least three successive weeks in a newspaper of general circulation in the county where the property affected by an order issued pursuant to this section is located. The notice shall state that any interested person may file a verified claim with the superior court stating the nature and amount of their claimed interest. The notice shall set forth the time within which a claim of interest in the protected property is required to be filed.

(4) If the property to be preserved is real property, the prosecuting agency shall record, at the time of filing the petition, a lis pendens in each county in which the real property is situated which specifically identifies the property by legal description, the name of the owner of record as shown on the latest equalized assessment roll, and the assessor's parcel number.

(5) If the property to be preserved are assets under the control of a banking or financial institution, the prosecuting agency, at the time of the filing of the petition, may obtain an order from the court directing the banking or financial institution to immediately disclose the account numbers and value of the assets of the accused held by the banking or financial institution. The prosecuting agency shall file a supplemental petition, specifically identifying which banking or financial institution accounts shall be subject to a temporary restraining order, preliminary injunction, or other protective remedy.

(6) Any person claiming an interest in the protected property may, at any time within 30 days from the date of the first publication of the notice of the petition, or within 30 days after receipt of actual notice, file with the superior court of the county in which the action is pending a verified claim stating the nature and amount of his or her interest in the property or assets. A verified copy of the claim shall be served by the claimant on the Attorney General or district attorney, as appropriate.

(7) The imposition of fines and restitution pursuant to this section shall be determined by the superior court in which the underlying criminal offense is sentenced. Any judge who is assigned to the criminal division of the superior court in the county where the petition is filed may issue a temporary restraining order in conjunction with, or subsequent to, the filing of an allegation pursuant to this section. Any subsequent hearing

on the petition shall also be heard by a judge assigned to the criminal division of the superior court in the county in which the petition is filed. At the time of the filing of an information or indictment in the underlying criminal case, any subsequent hearing on the petition shall be heard by the superior court judge assigned to the underlying criminal case.

(f) Concurrent with or subsequent to the filing of the petition, the prosecuting agency may move the superior court for, and the superior court may issue, the following pendente lite orders to preserve the status quo of the property alleged in the petition:

(1) An injunction to restrain any person from transferring, encumbering, hypothecating, or otherwise disposing of that property.

(2) Appointment of a receiver to take possession of, care for, manage, and operate the assets and properties so that the property may be maintained and preserved. The court may order that a receiver appointed pursuant to this section shall be compensated for all reasonable expenditures made or incurred by him or her in connection with the possession, care, management, and operation of any property or assets that are subject to the provisions of this section.

(3) A bond or other undertaking, in lieu of other orders, of a value sufficient to ensure the satisfaction of restitution and fines imposed pursuant to this section.

(g) (1) No preliminary injunction may be granted or receiver appointed by the court without notice that meets the requirements of paragraph (3) of subdivision (e) to all known and reasonably ascertainable interested parties and upon a hearing to determine that an order is necessary to preserve the property pending the outcome of the criminal proceedings. A temporary restraining order may be issued by the court, ex parte, pending that hearing in conjunction with or subsequent to the filing of the petition upon the application of the prosecuting attorney. The temporary restraining order may be based upon the sworn declaration of a peace officer with personal knowledge of the criminal investigation that establishes probable cause to believe that aggravated white collar crime has taken place and that the amount of restitution and fines established by this section exceeds or equals the worth of the assets subject to the temporary restraining order. The declaration may include the hearsay statements of witnesses to establish the necessary facts. The temporary restraining order may be issued without notice upon a showing of good cause to the court.

(2) The defendant, or a person who has filed a verified claim as provided in paragraph (6) of subdivision (e), shall have the right to have the court conduct an order to show cause hearing within 10 days of the service of the request for hearing upon the prosecuting agency, in order to determine whether the temporary restraining order should remain in

effect, whether relief should be granted from any lis pendens recorded pursuant to paragraph (4) of subdivision (e), or whether any existing order should be modified in the interests of justice. Upon a showing of good cause, the hearing shall be held within two days of the service of the request for hearing upon the prosecuting agency.

(3) In determining whether to issue a preliminary injunction or temporary restraining order in a proceeding brought by a prosecuting agency in conjunction with or subsequent to the filing of an allegation pursuant to this section, the court has the discretion to consider any matter that it deems reliable and appropriate, including hearsay statements, in order to reach a just and equitable decision. The court shall weigh the relative degree of certainty of the outcome on the merits and the consequences to each of the parties of granting the interim relief. If the prosecution is likely to prevail on the merits and the risk of the dissipation of assets outweighs the potential harm to the defendants and the interested parties, the court shall grant injunctive relief. The court shall give significant weight to the following factors:

(A) The public interest in preserving the property or assets pendente lite.

(B) The difficulty of preserving the property or assets pendente lite where the underlying alleged crimes involve issues of fraud and moral turpitude.

(C) The fact that the requested relief is being sought by a public prosecutor on behalf of alleged victims of white collar crimes.

(D) The likelihood that substantial public harm has occurred where aggravated white collar crime is alleged to have been committed.

(E) The significant public interest involved in compensating the victims of white collar crime and paying court-imposed restitution and fines.

(4) The court, in making its orders, may consider a defendant's request for the release of a portion of the property affected by this section in order to pay reasonable legal fees in connection with the criminal proceeding, any necessary and appropriate living expenses pending trial and sentencing, and for the purpose of posting bail. The court shall weigh the needs of the public to retain the property against the needs of the defendant to a portion of the property. The court shall consider the factors listed in paragraph (3) prior to making any order releasing property for these purposes.

(5) The court, in making its orders, shall seek to protect the interests of any innocent third persons, including an innocent spouse, who were not involved in the commission of any criminal activity.

(6) Any petition filed pursuant to this section is part of the criminal proceedings for purposes of appointment of counsel and shall be assigned

to the criminal division of the superior court of the county in which the accusatory pleading was filed.

(7) Based upon a noticed motion brought by the receiver appointed pursuant to paragraph (2) of subdivision (f), the court may order an interlocutory sale of property named in the petition when the property is liable to perish, to waste, or to be significantly reduced in value, or when the expenses of maintaining the property are disproportionate to the value thereof. The proceeds of the interlocutory sale shall be deposited with the court or as directed by the court pending determination of the proceeding pursuant to this section.

(8) The court may make any orders that are necessary to preserve the continuing viability of any lawful business enterprise that is affected by the issuance of a temporary restraining order or preliminary injunction issued pursuant to this action.

(9) In making its orders, the court shall seek to prevent any asset subject to a temporary restraining order or preliminary injunction from perishing, spoiling, going to waste, or otherwise being significantly reduced in value. Where the potential for diminution in value exists, the court shall appoint a receiver to dispose of or otherwise protect the value of the property or asset.

(10) A preservation order shall not be issued against any assets of a business that are not likely to be dissipated and that may be subject to levy or attachment to meet the purposes of this section.

(h) If the allegation that the defendant is subject to the aggravated white collar crime enhancement is dismissed or found by the trier of fact to be untrue, any preliminary injunction or temporary restraining order issued pursuant to this section shall be dissolved. If a jury is the trier of fact, and the jury is unable to reach a unanimous verdict, the court shall have the discretion to continue or dissolve all or a portion of the preliminary injunction or temporary restraining order based upon the interests of justice. However, if the prosecuting agency elects not to retry the case, any preliminary injunction or temporary restraining order issued pursuant to this section shall be dissolved.

(i) (1) (A) If the defendant is convicted of two or more felonies, as specified in subdivision (a), and the existence of facts that would make the person subject to the aggravated white collar crime enhancement have been admitted or found to be true by the trier of fact, the trial judge shall continue the preliminary injunction or temporary restraining order until the date of the criminal sentencing and shall make a finding at that time as to what portion, if any, of the property or assets subject to the preliminary injunction or temporary restraining order shall be levied upon to pay fines and restitution to victims of the crime. The order imposing fines and restitution may exceed the total worth of the property

or assets subjected to the preliminary injunction or temporary restraining order. The court may order the immediate transfer of the property or assets to satisfy any judgment and sentence made pursuant to this section. Additionally, upon motion of the prosecution, the court may enter an order as part of the judgment and sentence making the order imposing fines and restitution pursuant to this section enforceable pursuant to Title 9 (commencing with Section 680.010) of Part 2 of the Code of Civil Procedure.

(B) Additionally, the court shall order the defendant to make full restitution to the victim or to make restitution to the victim based on his or her ability to pay, as defined in subdivision (b) of Section 1203.1b. The payment of the restitution ordered by the court pursuant to this section shall be made a condition of any probation granted by the court if the existence of facts that would make the defendant subject to the aggravated white collar crime enhancement have been admitted or found to be true by the trier of fact. Notwithstanding any other provision of law, the court may order that the period of probation continue for up to 10 years or until full restitution is made to the victim, whichever is earlier.

(C) The sentencing court shall retain jurisdiction to enforce the order to pay additional fines and restitution and, in appropriate cases, may initiate probation violation proceedings or contempt of court proceedings against a defendant who is found to have willfully failed to comply with any lawful order of the court.

(D) If the execution of judgment is stayed pending an appeal of an order of the superior court pursuant to this section, the preliminary injunction or temporary restraining order shall be maintained in full force and effect during the pendency of the appellate period.

(2) The order imposing fines and restitution shall not affect the interest in real property of any third party that was acquired prior to the recording of the lis pendens, unless the property was obtained from the defendant other than as a bona fide purchaser for value. If any assets or property affected by this section are subject to a valid lien, mortgage, security interest, or interest under a conditional sales contract and the amount due to the holder of the lien, mortgage, interest, or contract is less than the appraised value of the property, that person may pay to the state or the local government that initiated the proceeding the amount of the difference between the appraised value of the property and the amount of the lien, mortgage, security interest, or interest under a conditional sales contract. Upon that payment, the state or local entity shall relinquish all claims to the property. If the holder of the interest elects not to make that payment to the state or local governmental entity, the interest in the property shall be deemed transferred to the state or local governmental entity and any indicia of ownership of the property shall be confirmed

in the state or local governmental entity. The appraised value shall be determined as of the date judgment is entered either by agreement between the holder of the lien, mortgage, security interest, or interest under a conditional sales contract and the governmental entity involved, or if they cannot agree, then by a court-appointed appraiser for the county in which the action is brought. A person holding a valid lien, mortgage, security interest, or interest under a conditional sales contract shall be paid the appraised value of his or her interest.

(3) In making its final order, the court shall seek to protect the legitimately acquired interests of any innocent third persons, including an innocent spouse, who were not involved in the commission of any criminal activity.

(j) In all cases where property is to be levied upon pursuant to this section, a receiver appointed by the court shall be empowered to liquidate all property or assets which shall be distributed in the following order of priority:

(1) To the receiver, or court-appointed appraiser, for all reasonable expenditures made or incurred by him or her in connection with the sale of the property or liquidation of assets, including all reasonable expenditures for any necessary repairs, storage, or transportation of any property levied upon under this section.

(2) To any holder of a valid lien, mortgage, or security interest up to the amount of his or her interest in the property or proceeds.

(3) To any victim as restitution for any fraudulent or unlawful acts alleged in the accusatory pleading that were proven by the prosecuting agency as part of the pattern of fraudulent or unlawful acts.

(4) For payment of any fine imposed pursuant to this section. The proceeds obtained in payment of a fine shall be paid to the treasurer of the county in which the judgment was entered, or if the action was undertaken by the Attorney General, to the Treasurer. If the payment of any fine imposed pursuant to this section involved losses resulting from violation of Section 550 of this code or Section 1871.4 of the Insurance Code, one-half of the fine collected shall be paid to the treasurer of the county in which the judgment was entered, and one-half of the fine collected shall be paid to the Department of Insurance for deposit in the appropriate account in the Insurance Fund. The proceeds from the fine first shall be used by a county to reimburse local prosecutors and enforcement agencies for the reasonable costs of investigation and prosecution of cases brought pursuant to this section.

(5) To the Restitution Fund, or in cases involving convictions relating to insurance fraud, to the Insurance Fund as restitution for crimes not specifically pleaded and proven in the accusatory pleading.

(k) If, after distribution pursuant to paragraphs (1) and (2) of subdivision (j), the value of the property to be levied upon pursuant to this section is insufficient to pay for restitution and fines, the court shall order an equitable sharing of the proceeds of the liquidation of the property, and any other recoveries, which shall specify the percentage of recoveries to be devoted to each purpose. At least 70 percent of the proceeds remaining after distribution pursuant to paragraphs (1) and (2) of subdivision (j) shall be devoted to restitution.

(*l*) Unless otherwise expressly provided, the remedies or penalties provided by this section are cumulative to each other and to the remedies or penalties available under all other laws of this state, except that two separate actions against the same defendant and pertaining to the same fraudulent or unlawful acts may not be brought by a district attorney or the Attorney General pursuant to this section and Chapter 5 (commencing with Section 17200) of Part 2 of Division 7 of the Business and Professions Code. If a fine is imposed under this section, it shall be in lieu of all other fines that may be imposed pursuant to any other provision of law for the crimes for which the defendant has been convicted in the action.

SEC. 2. The changes to Section 186.11 contained in this act are intended to be declaratory of existing law.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CHAPTER 409

An act to amend Section 13500 of the Penal Code, relating to law enforcement.

[Approved by Governor October 10, 2007. Filed with Secretary of State October 10, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 13500 of the Penal Code is amended to read:

13500. (a) There is in the Department of Justice a Commission on Peace Officer Standards and Training, hereafter referred to in this chapter as the commission. The commission consists of 15 members appointed by the Governor, after consultation with, and with the advice of, the Attorney General and with the advice and consent of the Senate. Racial, gender, and ethnic diversity shall be considered for all appointments to the commission.

(b) The commission shall be composed of the following members:

(1) Two members shall be (i) sheriffs or chiefs of police or peace officers nominated by their respective sheriffs or chiefs of police, (ii) peace officers who are deputy sheriffs or city police officers, or (iii) any combination thereof.

(2) Three members shall be sheriffs or chiefs of police or peace officers nominated by their respective sheriffs or chiefs of police.

(3) Four members shall be peace officers of the rank of sergeant or below with a minimum of five years' experience as a deputy sheriff, city police officer, marshal, or state-employed peace officer for whom the commission sets standards. Each member shall have demonstrated leadership in the recognized employee organization having the right to represent the member, as set forth in the Meyers-Milias-Brown Act (Chapter 10 (commencing with Section 3500)) and the Ralph C. Dills Act (Chapter 10.5 (commencing with Section 3525)) of Division 4 of Title 1 of the Government Code.

(4) One member shall be an elected officer or chief administrative officer of a county in this state.

(5) One member shall be an elected officer or chief administrative officer of a city in this state.

(6) Two members shall be public members who shall not be peace officers.

(7) One member shall be an educator or trainer in the field of criminal justice.

(8) One member shall be a peace officer in California of the rank of sergeant or below with a minimum of five years experience as a deputy sheriff, city police officer, marshal, or state-employed peace officer for whom the commission sets standards. This member shall have demonstrated leadership in a California-based law enforcement association that is also a presenter of POST-certified law enforcement training that advances the professionalism of peace officers in California.

(c) The Attorney General shall be an ex officio member of the commission.

(d) Of the members first appointed by the Governor, three shall be appointed for a term of one year, three for a term of two years, and three for a term of three years. Their successors shall serve for a term of three

years and until appointment and qualification of their successors, each term to commence on the expiration date of the term of the predecessor.

(e) The additional member provided for by the Legislature in its 1973–74 Regular Session shall be appointed by the Governor on or before January 15, 1975, and shall serve for a term of three years.

(f) The additional member provided for by the Legislature in its 1977–78 Regular Session shall be appointed by the Governor on or after July 1, 1978, and shall serve for a term of three years.

(g) The additional members provided for by the Legislature in its 1999–2000 Regular Session shall be appointed by the Governor on or before July 1, 2000, and shall serve for a term of three years.

(h) The additional member provided for by the Legislature in its 2007–08 Regular Session shall be appointed by the Governor on or before January 31, 2008, and shall serve for a term of three years.

CHAPTER 410

An act to add Section 19601.01 to the Business and Professions Code, relating to horse racing.

[Approved by Governor October 10, 2007. Filed with Secretary of State October 10, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 19601.01 is added to the Business and Professions Code, to read:

19601.01. Notwithstanding any other provision of law, a thoroughbred association or fair, subject to approval by the board, may deduct from the total amount handled in the parimutuel pool for any type of wager, an amount of not less than 10 percent nor more than 25 percent at the joint request of the thoroughbred association or fair and the horsemen's organization for the meeting of the thoroughbred association or fair accepting the wager. The amount deducted shall be distributed as prescribed in this chapter.

CHAPTER 411

An act to amend Section 102 of the Streets and Highways Code, relating to transportation.

[Approved by Governor October 10, 2007. Filed with
Secretary of State October 10, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 102 of the Streets and Highways Code is amended to read:

102. (a) In the name of the people of the State of California, the department may acquire by eminent domain any property necessary for state highway purposes.

(b) For any property that the department is acquiring by, or under threat of, eminent domain, the department shall, in a timely manner, provide a copy of all appraisals it performed or obtained for the property to the property owner. If any appraisals that are performed or paid for by the department are first provided to the property owner, the appraiser shall provide a copy of those appraisals to the department.

CHAPTER 412

An act to amend Section 4584 of the Public Resources Code, relating to public resources.

[Approved by Governor October 10, 2007. Filed with
Secretary of State October 10, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 4584 of the Public Resources Code is amended to read:

4584. Upon determining that the exemption is consistent with the purposes of this chapter, the board may exempt from this chapter or portions thereof, a person engaged in forest management whose activities are limited to any of the following:

(a) The cutting or removal of trees for the purpose of constructing or maintaining a right-of-way for utility lines.

(b) The planting, growing, nurturing, shaping, shearing, removal, or harvest of immature trees for Christmas trees or other ornamental purposes or minor forest products, including fuelwood.

(c) The cutting or removal of dead, dying, or diseased trees of any size.

(d) Site preparation.

(e) Maintenance of drainage facilities and soil stabilization treatments.

(f) Timber operations on land managed by the Department of Parks and Recreation.

(g) (1) The one-time conversion of less than three acres to a nontimber use. A person, whether acting as an individual or as a member of a partnership, or as an officer or employee of a corporation or other legal entity, shall not obtain more than one exemption pursuant to this subdivision in a five-year period. If a partnership has as a member, or if a corporation or any other legal entity has as an officer or employee, a person who has received this exemption within the past five years, whether as an individual or as a member of a partnership, or as an officer or employee of a corporation or other legal entity, then that partnership, corporation, or other legal entity is not eligible for this exemption. "Person," for purposes of this subdivision, means an individual, partnership, corporation, or any other legal entity.

(2) (A) Notwithstanding Section 4554.5, the board shall adopt regulations that become effective and operative on or before July 1, 2002, and do all of the following:

(i) Identify the required documentation of a bona fide intent to complete the conversion that an applicant will need to submit in order to be eligible for the exemption in paragraph (1).

(ii) Authorize the department to inspect the sites approved in conversion applications that have been approved on or after January 1, 2002, in order to determine that the conversion was completed within the two-year period described in subparagraph (B) of paragraph (2) of subdivision (a) of Section 1104.1 of Title 14 of the California Code of Regulations.

(iii) Require the exemption under this subdivision to expire if there is a change in timberland ownership. The person who originally submitted an application for an exemption under this subdivision shall notify the department of a change in timberland ownership on or before five calendar days after a change in ownership.

(iv) The board may adopt regulations allowing a waiver of the five-year limitation described in paragraph (1) upon finding that the imposition of the five-year limitation would impose an undue hardship on the applicant for the exemption. The board may adopt a process for an appeal of a denial of a waiver.

(B) The application form for the exemption pursuant to paragraph (1) shall prominently advise the public that a violation of the conversion exemption, including a conversion applied for in the name of someone other than the person or entity implementing the conversion in bona fide good faith, is a violation of this chapter and penalties may accrue up to ten thousand dollars ($10,000) for each violation pursuant to Article 8 (commencing with Section 4601).

(h) Easements granted by a right-of-way construction agreement administered by the federal government if any timber sales and operations within or affecting these areas are reviewed and conducted pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. Sec. 4321 et seq.).

(i) The cutting, removal, or sale of timber or other solid wood forest products from the species Taxus brevifolia (Pacific yew), if the known locations of any stands of this species three inches and larger in diameter at breast height are identified in the exemption notice submitted to the department. Nothing in this subdivision is intended to authorize the peeling of bark from, or the cutting or removal of, Taxus brevifolia within a watercourse and lake protection zone, special treatment area, buffer zone, or other area where timber harvesting is prohibited or otherwise restricted pursuant to board rules.

(j) (1) The cutting or removal of trees in compliance with Sections 4290 and 4291, that eliminates the vertical continuity of vegetative fuels and the horizontal continuity of tree crowns for the purpose of reducing flammable materials and maintaining a fuel break for a distance of not more than 150 feet on each side from an approved and legally permitted structure that complies with the California Building Code, when that cutting or removal is conducted in compliance with this subdivision. For purposes of this subdivision, an "approved and legally permitted structure" includes only structures that are designed for human occupancy and garages, barns, stables, and structures used to enclose fuel tanks.

(2) (A) The cutting or removal of trees pursuant to this subdivision is limited to cutting or removal that will result in a reduction in the rate of fire spread, fire duration and intensity, fuel ignitability, or ignition of the tree crowns and shall be in accordance with any regulations adopted by the board pursuant to this section.

(B) Trees shall not be cut or removed pursuant to this subdivision by the clearcutting regeneration method, by the seed tree removal step of the seed tree regeneration method, or by the shelterwood removal step of the shelterwood regeneration method.

(3) (A) Surface fuels, including logging slash and debris, low brush, and deadwood, that could promote the spread of wildfire shall be chipped, burned, or otherwise removed from all areas of timber operations within 45 days from the date of commencement of timber operations pursuant to this subdivision.

(B) (i) All surface fuels that are not chipped, burned, or otherwise removed from all areas of timber operations within 45 days from the date of commencement of timber operations may be determined to be a nuisance and subject to abatement by the department or the city or county having jurisdiction.

(ii) The costs incurred by the department, city, or county, as the case may be, to abate the nuisance upon any parcel of land subject to the timber operations, including, but not limited to, investigation, boundary determination, measurement, and other related costs, may be recovered by special assessment and lien against the parcel of land by the department, city, or county. The assessment may be collected at the same time and in the same manner as ordinary ad valorem taxes, and shall be subject to the same penalties and the same procedure and sale in case of delinquency as is provided for ad valorem taxes.

(4) All timber operations conducted pursuant to this subdivision shall conform to applicable city or county general plans, city or county implementing ordinances, and city or county zoning ordinances. Nothing in this paragraph is intended to authorize the cutting, removal, or sale of timber or other solid wood forest products within an area where timber harvesting is prohibited or otherwise restricted pursuant to the rules or regulations adopted by the board.

(5) (A) The board shall adopt regulations, initially as emergency regulations in accordance with subparagraph (B), that the board considers necessary to implement and to obtain compliance with this subdivision.

(B) The emergency regulations adopted pursuant to subparagraph (A) shall be adopted in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). The adoption of emergency regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health, and safety, or general welfare.

(k) (1) Until January 1, 2013, the harvesting of trees, limited to those trees that eliminate the vertical continuity of vegetative fuels and the horizontal continuity of tree crowns, for the purpose of reducing the rate of fire spread, duration and intensity, fuel ignitability, or ignition of tree crowns.

(2) The board may authorize an exemption pursuant to paragraph (1) only if the tree harvesting will decrease fuel continuity and increase the quadratic mean diameter of the stand, and the tree harvesting area will not exceed 300 acres.

(3) The notice of exemption, which shall be known as the Forest Fire Prevention Exemption, may be authorized only if all of the conditions specified in paragraphs (4) to (10), inclusive, are met.

(4) A registered professional forester shall prepare the notice of exemption and submit it to the director, and include a map of the area of timber operations that complies with the requirements of paragraphs (1), (3), (4), and (7) to (12), inclusive, of subdivision (x) of Section 1034 of Title 14 of the California Code of Regulations.

(5) (A) The registered professional forester who submits the notice of exemption shall include a description of the preharvest stand structure and a statement of the postharvest stand stocking levels.

(B) The level of residual stocking shall be consistent with maximum sustained production of high-quality timber products. The residual stand shall consist primarily of healthy and vigorous dominant and codominant trees from the preharvest stand. Stocking shall not be reduced below the standards required by any of the following provisions that apply to the exemption at issue:

(i) Clauses 1 to 4, inclusive, of subparagraph (A) of paragraph (1) of subdivision (a) of Section 913.3 of Title 14 of the California Code of Regulations.

(ii) Clauses 1 to 4, inclusive, of subparagraph (A) of paragraph (1) of subdivision (a) of Section 933.3 of Title 14 of the California Code of Regulations.

(iii) Clauses 1 to 4, inclusive, of subparagraph (A) of paragraph (1) of subdivision (a) of Section 953.3 of Title 14 of the California Code of Regulations.

(C) If the preharvest dominant and codominant crown canopy is occupied by trees less than 14 inches diameter at breast height, a minimum of 100 trees over four inches diameter at breast height shall be retained per acre for Site I, II, and III lands, and a minimum of 75 trees over four inches diameter at breast height shall be retained per acre for Site IV and V lands.

(6) (A) The registered professional forester who submits the notice shall include selection criteria for the trees to be harvested or the trees to be retained. In the development of fuel reduction prescriptions, the registered professional forester should consider retaining habitat elements, where feasible, including, but not limited to, ground level cover necessary for the long-term management of local wildlife populations.

(B) All trees that are harvested or all trees that are retained shall be marked or sample marked by or under the supervision of a registered professional forester before felling operations begin. The board shall adopt regulations for sample marking for this section in Title 14 of the California Code of Regulations. Sample marking shall be limited to homogenous forest stand conditions typical of plantations.

(7) (A) The registered professional forester submitting the notice, upon submission of the notice, shall provide a confidential archaeology letter that includes all of the information required by any of the following provisions that apply to the exemption at issue:

(i) Paragraphs (2) and (7) to (11), inclusive, of subdivision (c) of Section 929.1 of Title 14 of the California Code of Regulations, and include site records if required pursuant to subdivision (g) of that section

or pursuant to Section 929.5 of Title 14 of the California Code of Regulations.

(ii) Paragraphs (2) and (7) to (11), inclusive, of subdivision (c) of Section 949.1 of Title 14 of the California Code of Regulations, and include site records if required pursuant to subdivision (g) of that section or pursuant to Section 949.5 of Title 14 of the California Code of Regulations.

(iii) Paragraphs (2) and (7) to (11), inclusive, of subdivision (c) of Section 969.1 of Title 14 of the California Code of Regulations, and include site records if required pursuant to subdivision (g) of that section or pursuant to Section 969.5 of Title 14 of the California Code of Regulations.

(B) The director shall submit a complete copy of the confidential archaeological letter and two copies of all required archaeological or historical site records, to the appropriate Information Center of the California Historical Resource Information System within 30 days from the date of notice submittal to the director. Before submitting the notice to the director, the registered professional forester shall send a copy of the notice to Native Americans, as defined in Section 895.1 of Title 14 of the California Code of Regulations.

(8) Only trees less than 18 inches stump diameter, measured at eight inches above ground level, may be removed. However, within 500 feet of a legally permitted structure, or in an area prioritized as a shaded fuel break in a community wildfire protection plan approved by a public fire agency, if the goal of fuel reduction cannot be achieved by removing trees less than 18 inches stump diameter, trees less than 24 inches stump diameter may be removed if that removal complies with this section and is necessary to achieve the goal of fuel reduction. A fuel reduction effort shall not violate the canopy closure regulations adopted by the board on June 10, 2004, and as those regulations may be amended.

(9) (A) This subparagraph applies to areas within 500 feet of a legally permitted structure and in areas prioritized as a shaded fuel break in a community wildfire protection plan approved by a public fire agency. The board shall adopt regulations for the treatment of surface and ladder fuels in the harvest area, including logging slash and debris, low brush, small trees, and deadwood, that could promote the spread of wildfire. The regulations adopted by the board shall be consistent with the standards in the board's "General Guidelines for Creating Defensible Space" described in Section 1299 of Title 14 of the California Code of Regulations. Postharvest standards shall include vertical spacing between fuels, horizontal spacing between fuels, maximum depth of dead ground surface fuels, and treatment of standing dead fuels, as follows:

(i) Ladder and surface fuels shall be spaced to achieve a vertical clearance distance of eight feet or three times the height of the postharvest fuels, whichever is the greater distance, measured from the base of the live crown of the postharvest dominant and codominant trees to the top of the surface fuels.

(ii) Horizontal spacing shall achieve a minimum separation of two to six times the height of the postharvest fuels, increasing spacing with increasing slope, measured from the outside branch edges of the fuels.

(iii) Dead surface fuel depth shall be less than nine inches.

(iv) Standing dead or dying trees and brush shall generally be removed. That material, along with live vegetation associated with the dead vegetation, may be retained for wildlife habitat when isolated from other vegetation.

(B) This subparagraph applies to all areas not described in subparagraph (A).

(i) The postharvest stand shall contain no more than 200 trees over three inches in diameter per acre.

(ii) Vertical spacing shall be achieved by treating dead fuels to a minimum clearance distance of eight feet measured from the base of the live crown of the postharvest dominant and codominant trees to the top of the dead surface fuels.

(iii) All logging slash created by the timber operations shall be treated to achieve a maximum postharvest depth of nine inches above the ground.

(C) The standards required by subparagraphs (A) and (B) shall be achieved on approximately 80 percent of the treated area. The treatment shall include chipping, removing, or other methods necessary to achieve the standards. Ladder and surface fuel treatments, for any portion of the exemption area where timber operations have occurred, shall be done within 120 days from the start of timber operations on that portion of the exemption area or by April 1 of the year following surface fuel creation on that portion of the exemption area if the surface fuels are burned.

(10) Timber operations shall comply with the requirements of paragraphs (1) to (10), inclusive, of subdivision (b) of Section 1038 of Title 14 of the California Code of Regulations. Timber operations in the Lake Tahoe Region shall comply instead with the requirements of paragraphs (1) to (16), inclusive, of subdivision (f) of Section 1038 of Title 14 of the California Code of Regulations.

(11) After the timber operations are complete, the department shall conduct an onsite inspection to determine compliance with this subdivision and whether appropriate enforcement action should be initiated.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CHAPTER 413

An act to amend Section 14679 of the Government Code, and to amend Sections 22511.59, 22511.7, 22511.8, and 42001.13 of, and to add Section 22511.95 to, the Vehicle Code, relating to vehicles.

[Approved by Governor October 10, 2007. Filed with Secretary of State October 10, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 14679 of the Government Code is amended to read:

14679. (a) A parking facility under the jurisdiction or control of a state agency, that is available to private persons who desire to conduct business with the state agency, shall reserve for the exclusive use of any vehicle that displays either a special identification license plate issued pursuant to Section 5007 or a distinguishing placard issued pursuant to Section 22511.55 or 22511.59 a minimum of one parking space for up to 25 spaces, and additional parking spaces pursuant to Section 1129B of Part 2 of Title 24 of the California Code of Regulations.

(1) (A) The space or spaces shall be reserved by posting immediately adjacent to and visible from such space or spaces a sign consisting of a profile view of a wheelchair with occupant in white on a blue background.

(B) The sign shall also clearly and conspicuously state the following: "Minimum Fine $250," pursuant to Section 42001.13 of the Vehicle Code, imposed upon a person parking or leaving standing a vehicle in a stall or space designated for the use of disabled persons and disabled veterans, unless a special license plate issued pursuant to Section 5007 of the Vehicle Code or a distinguishing placard issued pursuant to Section 22511.55 or 22511.59 of the Vehicle Code is displayed on the vehicle. This subparagraph applies only to signs for parking spaces constructed

on or after July 1, 2008, and signs that are replaced on or after July 1, 2008, or as the State Architect deems necessary when renovations, structural repair, alterations, and additions occur to existing buildings and facilities on or after July 1, 2008.

(2) The loading and unloading area of the pavement adjacent to a parking stall or space designated for disabled persons or disabled veterans shall be marked by a border and hatched lines. The border shall be painted blue and the hatched lines shall be painted a suitable contrasting color to the parking space. Blue or white paint is preferred. In addition, within the border the words "No Parking" shall be painted in white letters no less than 12 inches high. This paragraph applies only to parking spaces constructed on or after July 1, 2008, and painting that is done on or after July 1, 2008, or as the State Architect deems necessary when renovations, structural repair, alterations, and additions occur to existing buildings and facilities on or after July 1, 2008.

(b) If no parking facility under the jurisdiction and control of a state agency is available to private persons who desire to conduct business with the state agency, the state agency shall request the local authority having jurisdiction over streets immediately adjacent to the property of the state agency to provide parking spaces for the use of disabled persons and disabled veterans pursuant to Section 22511.7 of the Vehicle Code.

(c) The Department of General Services under the Division of the State Architect shall develop pursuant to Section 4450, as appropriate, conforming regulations to ensure compliance with subparagraph (B) of paragraph (1) of subdivision (a) and paragraph (2) of subdivision (a). Initial regulations to implement these provisions shall be adopted as emergency regulations. The adoption of these regulations shall be considered by the Department of General Services to be an emergency necessary for the immediate preservation of the public peace, health and safety, or general welfare.

SEC. 2. Section 22511.59 of the Vehicle Code is amended to read:

22511.59. (a) Upon the receipt of the applications and documents required by subdivision (b), (c), or (d), the department shall issue a temporary distinguishing placard bearing the International Symbol of Access adopted pursuant to Section 3 of Public Law 100-641 commonly known as the "wheelchair symbol." During the period for which it is valid, the temporary distinguishing placard may be used for the parking purposes described in Section 22511.5 in the same manner as a distinguishing placard issued pursuant to Section 22511.55.

(b) (1) A person who is temporarily disabled for a period of not more than six months may apply to the department for the issuance of the temporary distinguishing placard described in subdivision (a).

(2) Prior to issuing a placard pursuant to this subdivision, the department shall require the submission of a certificate signed by a physician and surgeon, or to the extent that it does not cause a reduction in the receipt of federal aid highway funds, by a nurse practitioner, certified nurse midwife, physician assistant, chiropractor, or optometrist, as described in subdivision (b) of Section 22511.55, substantiating the temporary disability and stating the date upon which the disability is expected to terminate.

(3) The physician and surgeon, nurse practitioner, certified nurse midwife, physician assistant, chiropractor, or optometrist who signs a certificate submitted under this subdivision shall maintain information sufficient to substantiate that certificate and, upon request of the department, shall make that information available for inspection by the Medical Board of California or the appropriate regulatory board.

(4) A placard issued pursuant to this subdivision shall expire not later than 180 days from the date of issuance or upon the expected termination date of the disability, as stated on the certificate required by paragraph (2), whichever is less.

(5) The fee for a temporary placard issued pursuant to this subdivision shall be six dollars ($6).

(6) A placard issued pursuant to this subdivision shall be renewed a maximum of six times consecutively.

(c) (1) A permanently disabled person or disabled veteran who is not a resident of this state and plans to travel within the state may apply to the department for the issuance of the temporary distinguishing placard described in subdivision (a).

(2) Prior to issuing a placard pursuant to this subdivision, the department shall require certification of the disability, as described in subdivision (b) of Section 22511.55.

(3) The physician and surgeon, nurse practitioner, certified nurse midwife, physician assistant, chiropractor, or optometrist who signs a certificate submitted under this subdivision shall maintain information sufficient to substantiate that certificate and, upon request of the department, shall make that information available for inspection by the Medical Board of California or the appropriate regulatory board.

(4) A placard issued pursuant to this subdivision shall expire not later than 90 days from the date of issuance.

(5) The department shall not charge a fee for issuance of a placard under this subdivision.

(6) A placard issued pursuant to this subdivision shall be renewed a maximum of six times consecutively.

(d) (1) A permanently disabled person or disabled veteran who has been issued either a distinguishing placard pursuant to Section 22511.55

or special license plates pursuant to Section 5007, but not both, may apply to the department for the issuance of the temporary distinguishing placard described in subdivision (a) for the purpose of travel.

(2) Prior to issuing a placard pursuant to this subdivision, the department shall require the applicant to submit either the number identifying the distinguishing placard issued pursuant to Section 22511.55 or the number on the special license plates.

(3) A placard issued pursuant to this subdivision shall expire not later than 30 days from the date of issuance.

(4) The department shall not charge a fee for issuance of a placard under this subdivision.

(5) A placard issued pursuant to this subdivision shall be renewed a maximum of six times consecutively.

(e) The department shall print on a temporary distinguishing placard, the maximum penalty that may be imposed for a violation of Section 4461. For the purposes of this subdivision, the "maximum penalty" is the amount derived from adding all of the following:

(1) The maximum fine that may be imposed under Section 4461.

(2) The penalty required to be imposed under Section 70372 of the Government Code.

(3) The penalty required to be levied under Section 76000 of the Government Code.

(4) The penalty required to be levied under Section 1464 of the Penal Code.

(5) The surcharge required to be levied under Section 1465.7 of the Penal Code.

(6) The penalty authorized to be imposed under Section 4461.3.

SEC. 3. Section 22511.7 of the Vehicle Code is amended to read:

22511.7. (a) In addition to Section 22511.8 for offstreet parking, a local authority may, by ordinance or resolution, designate onstreet parking spaces for the exclusive use of a vehicle that displays either a special identification license plate issued pursuant to Section 5007 or a distinguishing placard issued pursuant to Section 22511.55 or 22511.59.

(b) (1) Whenever a local authority so designates a parking space, it shall be indicated by blue paint on the curb or edge of the paved portion of the street adjacent to the space. In addition, the local authority shall post immediately adjacent to and visible from the space a sign consisting of a profile view of a wheelchair with occupant in white on a blue background.

(2) The sign required pursuant to paragraph (1) shall clearly and conspicuously state the following: "Minimum Fine $250," pursuant to Section 42001.13, imposed upon a person parking or leaving standing a vehicle in a stall or space designated for the use of a disabled person

or disabled veterans, unless a special license plate issued pursuant to Section 22511.55 or Section 22511.59 is displayed on the vehicle. This paragraph applies only to signs for parking spaces constructed on or after July 1, 2008, and signs that are replaced on or after July 1, 2008.

(3) If the loading and unloading area of the pavement adjacent to a parking stall or space designated for disabled persons or disabled veterans is to be marked by a border and hatched lines, the border shall be painted blue and the hatched lines shall be painted a suitable contrasting color to the parking space. Blue or white paint is preferred. In addition, within the border the words "No Parking" shall be painted in white letters no less than 12 inches high. This paragraph applies only to parking spaces constructed on or after July 1, 2008, and painting that is done on or after July 1, 2008.

(c) This section does not restrict the privilege granted to disabled persons and disabled veterans by Section 22511.5.

SEC. 4. Section 22511.8 of the Vehicle Code is amended to read:

22511.8. (a) A local authority, by ordinance or resolution, and a person in lawful possession of an offstreet parking facility may designate stalls or spaces in an offstreet parking facility owned or operated by the local authority or person for the exclusive use of a vehicle that displays either a special license plate issued pursuant to Section 5007 or a distinguishing placard issued pursuant to Section 22511.55 or 22511.59. The designation shall be made by posting a sign as described in paragraph (1), and by either of the markings described in paragraph (2) or (3):

(1) (A) By posting immediately adjacent to, and visible from, each stall or space, a sign consisting of a profile view of a wheelchair with occupant in white on a blue background.

(B) The sign shall also clearly and conspicuously state the following: "Minimum Fine $250," pursuant to Section 42001.13, imposed upon a person parking or leaving standing a vehicle in a stall or space designated for the use of disabled persons and disabled veterans, unless a special license plate issued pursuant to Section 5007 or a distinguishing placard issued pursuant to Section 22511.55 or 22511.59 is displayed on the vehicle. This subparagraph applies only to signs for parking spaces constructed on or after July 1, 2008, and signs that are replaced on or after July 1, 2008, or as the State Architect deems necessary when renovations, structural repair, alterations, and additions occur to existing buildings and facilities on or after July 1, 2008.

(2) (A) By outlining or painting the stall or space in blue and outlining on the ground in the stall or space in white or suitable contrasting color a profile view depicting a wheelchair with occupant.

(B) The loading and unloading area of the pavement adjacent to a parking stall or space designated for disabled persons or disabled veterans

shall be marked by a border and hatched lines. The border shall be painted blue and the hatched lines shall be painted a suitable contrasting color to the parking space. Blue or white paint is preferred. In addition, within the border the words "No Parking" shall be painted in white letters no less than 12 inches high. This subparagraph applies only to parking spaces constructed on or after July 1, 2008, and painting that is done on or after July 1, 2008, or as the State Architect deems necessary when renovations, structural repair, alterations, and additions occur to existing buildings and facilities on or after July 1, 2008.

(3) By outlining a profile view of a wheelchair with occupant in white on a blue background, of the same dimensions as in paragraph (2). The profile view shall be located so that it is visible to a traffic enforcement officer when a vehicle is properly parked in the space.

(b) The Department of General Services under the Division of the State Architect shall develop pursuant to Section 4450 of the Government Code, as appropriate, conforming regulations to ensure compliance with subparagraph (B) of paragraph (1) of subdivision (a) and subparagraph (B) of paragraph (2) of subdivision (a). Initial regulations to implement these provisions shall be adopted as emergency regulations. The adoption of these regulations shall be considered by the Department of General Services to be an emergency necessary for the immediate preservation of the public peace, health and safety, or general welfare.

(c) If posted in accordance with subdivision (e) or (f), the owner or person in lawful possession of a privately owned or operated offstreet parking facility, after notifying the police or sheriff's department, may cause the removal of a vehicle from a stall or space designated pursuant to subdivision (a) in the facility to the nearest public garage unless a special license plate issued pursuant to Section 5007 or distinguishing placard issued pursuant to Section 22511.55 or 22511.59 is displayed on the vehicle.

(d) If posted in accordance with subdivision (e), the local authority owning or operating an offstreet parking facility, after notifying the police or sheriff's department, may cause the removal of a vehicle from a stall or space designated pursuant to subdivision (a) in the facility to the nearest public garage unless a special license plate issued pursuant to Section 5007 or a distinguishing placard issued pursuant to Section 22511.55 or 22511.59 is displayed on the vehicle.

(e) Except as provided in Section 22511.9, the posting required for an offstreet parking facility owned or operated either privately or by a local authority shall consist of a sign not less than 17 by 22 inches in size with lettering not less than one inch in height which clearly and conspicuously states the following: "Unauthorized vehicles parked in designated accessible spaces not displaying distinguishing placards or

special license plates issued for persons with disabilities will be towed away at the owner's expense. Towed vehicles may be reclaimed at:

_____ or by telephoning
(Address)
_____."
(Telephone number of local law enforcement agency)

The sign shall be posted in either of the following locations:

(1) Immediately adjacent to, and visible from, the stall or space.

(2) In a conspicuous place at each entrance to the offstreet parking facility.

(f) If the parking facility is privately owned and public parking is prohibited by the posting of a sign meeting the requirements of paragraph (1) of subdivision (a) of Section 22658, the requirements of subdivision (c) may be met by the posting of a sign immediately adjacent to, and visible from, each stall or space indicating that a vehicle not meeting the requirements of subdivision (a) will be removed at the owner's expense and containing the telephone number of the local traffic law enforcement agency.

(g) This section does not restrict the privilege granted to disabled persons and disabled veterans by Section 22511.5.

SEC. 5. Section 22511.95 is added to the Vehicle Code, to read:

22511.95. All new or replacement signs installed on or after July 1, 2008, relating to parking privileges for disabled persons shall refer to "persons with disabilities" rather than "disabled persons" or any other similar term, whenever the reference is required on the sign.

SEC. 6. Section 42001.13 of the Vehicle Code is amended to read:

42001.13. (a) A person convicted of an infraction for a violation of Section 22507.8 shall be punished as follows:

(1) A fine of not less than two hundred fifty dollars ($250) and not more than five hundred dollars ($500) for the first offense.

(2) A fine of not less than five hundred dollars ($500) and not more than seven hundred fifty dollars ($750) for the second offense.

(3) A fine of not less than seven hundred fifty dollars ($750) and not more than one thousand dollars ($1,000) for three or more offenses.

(b) The court may suspend the imposition of the fine if the person convicted possessed at the time of the offense, but failed to display, a valid special identification license plate issued pursuant to Section 5007 or a distinguishing placard issued pursuant to Section 22511.55 or 22511.59.

(c) A fine imposed under this section may be paid in installments if the court determines that the defendant is unable to pay the entire amount in one payment.

SEC. 7. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because, in that regard, this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

CHAPTER 414

An act to amend Section 179.9 of, and to add Section 179.8 to, the Government Code, relating to emergency services, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 10, 2007. Filed with Secretary of State October 10, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 179.8 is added to the Government Code, to read:

179.8. Notwithstanding the provisions of the Emergency Management Assistance Compact, as set forth in Section 179.5, the state shall not deploy any personnel under the compact to render aid to a party state for any conditions resulting from a labor controversy, and the state shall not receive aid from a party state for conditions resulting from a labor controversy.

SEC. 2. Section 179.9 of the Government Code is amended to read:

179.9. This article shall become inoperative on March 1, 2012, and, as of January 1, 2013, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2013, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to extend the operation of the Emergency Management Assistance Compact, which provides for interstate cooperation in responding to emergencies and disasters, at the earliest possible time, it is necessary for this act to take effect immediately.

CHAPTER 415

An act to amend Section 8222.1 of the Education Code, relating to child care.

[Approved by Governor October 10, 2007. Filed with Secretary of State October 10, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 8222.1 of the Education Code is amended to read:

8222.1. Out of funds appropriated in accordance with paragraph (2) of subdivision (b) of Section 8278 for alternative payment programs, the department shall reallocate funds as necessary to reimburse alternative payment programs, excluding programs operating pursuant to Article 15.5 (commencing with Section 8350), for actual and allowable costs incurred for additional services. An alternative payment program may apply for reimbursement of up to 3 percent of the contract amount, or for a greater amount subject to the discretion of the department based on the availability of funds. The department shall approve or deny applications submitted pursuant to this section, but shall not consider applications received after September 30 of the current calendar year. The department shall distribute reimbursement funds for each approved application within 90 days of receipt of the application if it was filed between May 1 and July 20, inclusive, of the current calendar year. Applications received after July 20 are not subject to the 90-day requirement for the distribution of funds. If requests for reimbursement pursuant to this section exceed available funds, the department shall assign priority for reimbursement according to the order in which it receives applications. Funds received by an alternative payment program

pursuant to this section that are not substantiated by the program's annual audit shall be returned to the department.

CHAPTER 416

An act relating to water.

[Approved by Governor October 10, 2007. Filed with Secretary of State October 10, 2007.]

The people of the State of California do enact as follows:

SECTION 1. This act shall be known and may be cited as the Scott Valley and Shasta Valley Watermaster District Act. It is intended to supplement the Water Code and reads as follows:

SCOTT VALLEY AND SHASTA VALLEY WATERMASTER DISTRICT ACT

Article 1. Creation

101. This act shall be known and may be cited as the Scott Valley and Shasta Valley Watermaster District Act.

102. (a) A watermaster district is hereby created in Siskiyou County to be known as the Scott Valley and Shasta Valley Watermaster District.

(b) The district shall be governed by a board of directors as specified in Section 401, shall have boundaries as prescribed in Section 201, and shall exercise the powers granted by this act for purposes of acting as watermaster over those decreed water rights whose places of use are within the Scott Valley and Shasta Valley and for which the Superior Court for the County of Siskiyou has appointed the district as the watermaster, together with other powers and duties that are granted by this act or reasonably implied and necessary and proper to carry out the purposes of the district, including, but not limited to, any power authorized by the court which appoints the district as watermaster.

(c) The Legislature hereby finds and declares that the cost-effective and responsible enforcement of existing decreed water rights within the Scott Valley and Shasta Valley is in the public interest, and that the creation of a watermaster district that can serve in that capacity after proper appointment by the Superior Court for Siskiyou County is for the common benefit of the holders of those decreed water rights within the

Scott Valley and Shasta Valley and for the protection of agricultural and economic productivity.

Article 2. Boundaries

201. For the purposes of this act, all of the following territory is included in the Scott Valley and Shasta Valley Watermaster District:

Those portions of the following townships that lie within the county:

Township 39 North, Range 9 West, Mt. Diablo Base and Meridian;

Township 40 North, Range 7 West, Mt. Diablo Base and Meridian; and

Township 41 North, Range 6 West, Mt. Diablo Base and Meridian.

All of the following townships that lie entirely within Siskiyou County:

Township 40 North, Range 10 West, Mt. Diablo Base and Meridian;
Township 40 North, Range 9 West, Mt. Diablo Base and Meridian;
Township 40 North, Range 8 West, Mt. Diablo Base and Meridian;
Township 41 North, Range 10 West, Mt. Diablo Base and Meridian;
Township 41 North, Range 9 West, Mt. Diablo Base and Meridian;
Township 41 North, Range 8 West, Mt. Diablo Base and Meridian;
Township 41 North, Range 7 West, Mt. Diablo Base and Meridian;
Township 41 North, Range 5 West, Mt. Diablo Base and Meridian;
Township 41 North, Range 4 West, Mt. Diablo Base and Meridian;
Township 42 North, Range 11 West, Mt. Diablo Base and Meridian;
Township 42 North, Range 10 West, Mt. Diablo Base and Meridian;
Township 42 North, Range 9 West, Mt. Diablo Base and Meridian;
Township 42 North, Range 8 West, Mt. Diablo Base and Meridian;
Township 42 North, Range 7 West, Mt. Diablo Base and Meridian;
Township 42 North, Range 6 West, Mt. Diablo Base and Meridian;
Township 42 North, Range 5 West, Mt. Diablo Base and Meridian;
Township 42 North, Range 4 West, Mt. Diablo Base and Meridian;
Township 43 North, Range 11 West, Mt. Diablo Base and Meridian;
Township 43 North, Range 10 West, Mt. Diablo Base and Meridian;
Township 43 North, Range 9 West, Mt. Diablo Base and Meridian;
Township 43 North, Range 8 West, Mt. Diablo Base and Meridian;
Township 43 North, Range 7 West, Mt. Diablo Base and Meridian;
Township 43 North, Range 6 West, Mt. Diablo Base and Meridian;
Township 43 North, Range 5 West, Mt. Diablo Base and Meridian;
Township 43 North, Range 4 West, Mt. Diablo Base and Meridian;
Township 44 North, Range 10 West, Mt. Diablo Base and Meridian;
Township 44 North, Range 9 West, Mt. Diablo Base and Meridian;
Township 44 North, Range 8 West, Mt. Diablo Base and Meridian;
Township 44 North, Range 7 West, Mt. Diablo Base and Meridian;
Township 44 North, Range 6 West, Mt. Diablo Base and Meridian;

Township 44 North, Range 5 West, Mt. Diablo Base and Meridian;
Township 44 North, Range 4 West, Mt. Diablo Base and Meridian;
Township 45 North, Range 9 West, Mt. Diablo Base and Meridian;
Township 45 North, Range 8 West, Mt. Diablo Base and Meridian;
Township 45 North, Range 7 West, Mt. Diablo Base and Meridian;
Township 45 North, Range 6 West, Mt. Diablo Base and Meridian;
Township 45 North, Range 5 West, Mt. Diablo Base and Meridian;
Township 45 North, Range 4 West, Mt. Diablo Base and Meridian;
Township 45 North, Range 3 West, Mt. Diablo Base and Meridian;
Township 46 North, Range 7 West, Mt. Diablo Base and Meridian;
Township 46 North, Range 6 West, Mt. Diablo Base and Meridian; and
Township 46 North, Range 3 West, Mt. Diablo Base and Meridian.

202. The district is divided into the following service areas:

(a) Scott Valley Service Area.

(b) Shasta Valley Service Area.

Article 3. Definitions

301. Unless otherwise indicated by their context, the definitions set forth in this article govern the construction of this act.

302. "Appointed decree" means a decree for which the district is appointed the watermaster by the court.

303. "Appointed parcel" means a parcel of real property within the district that is a place of use for water rights under an appointed decree.

304. "Board of directors" or "board" means the board of directors of the district.

305. "Contracted parcel" means an eligible parcel whose owner has entered into a contract with the district to provide watermaster service for that parcel.

306. "County" means Siskiyou County.

307. "Court" means the Superior Court for the County of Siskiyou.

308. "Decree" or "decrees" means any water right decree, entered by the court, which adjudicates water rights within the county in which the decreed points of diversion are within the Scott Valley or Shasta Valley in the county.

309. "Department" means the Department of Water Resources.

310. "District" means the Scott Valley and Shasta Valley Watermaster District.

311. "Eligible parcel" means a parcel of real property within the district that is a place of use for water rights under a decree that is not an appointed decree, and for which the department is not the watermaster.

312. "Fund" means the fund designated by the court, or by the district in the absence of a designation by the court, into which charges levied by the district shall be paid by the county upon collection.

313. "Owner" means a person who is an owner of a parcel of real property within the district that is a place of use for water rights under a decree.

314. "Person" means any state or local governmental agency, private corporation, firm, partnership, individual, group of individuals, or, to the extent authorized by law, any native tribe or federal agency.

315. "Scott Valley" means that portion of the district generally drained by the Scott River.

316. "Shasta Valley" means that portion of the district generally drained by the Shasta River.

317. "Voter" means a holder of water rights whose place of use under a decree is an appointed or contracted parcel.

Article 4. General Provisions

401. (a) The board of directors shall govern the district and shall exercise the powers of the district as set forth in this act.

(b) Except as specified in subdivision (d), the board of directors of the district shall consist of seven members, as follows:

(1) Two members who shall be voters holding water rights whose places of use under a decree are appointed or contracted parcels within the Scott Valley Service Area. These members shall be elected at large from the Scott Valley Service Area.

(2) Three members who shall be voters holding water rights whose places of use are appointed or contracted parcels within the Shasta Valley Service Area. These members shall be elected at large from the Shasta Valley Service Area.

(3) Two members appointed by the county board of supervisors. These members shall be residents of the county and shall not be voters.

(c) A quorum of the board of directors shall be four members. A majority of affirmative votes of the full membership of the board shall be required to take an action.

(d) (1) On or before February 1, 2008, the county board of supervisors shall appoint the members of the board of directors with the qualifications required by subdivision (b), as if the court had appointed the district as the watermaster. The members of the board of directors appointed pursuant to this paragraph shall hold office until their successors are elected or appointed and qualified in accordance with subdivision (b).

(2) At the first opportunity to conduct an election, the voters shall elect the members of the board of directors identified in paragraphs (1)

and (2) of subdivision (b). At the first meeting of the board of directors following that election, the members of the board of directors shall classify themselves by lot into two classes. One class shall have four members and the other class shall have three members. For the class that has four members, the term of office shall be four years. For the class that has three members, the term of office shall be two years. Thereafter, the terms of all members of the board of directors shall be four years.

(3) Except as provided in paragraphs (1) and (2), the term of office for a member of the board of directors shall be four years.

(4) Members of the board of directors may be reelected or reappointed.

(e) Except as otherwise provided in this act, the Uniform District Election Law (Part 4 (commencing with Section 10500) of Division 10 of the Elections Code) shall apply to elections within the district.

(f) Any vacancy in the elective office of a member of the board of directors shall be filled pursuant to Section 1780 of the Government Code. Any vacancy in the appointive office of a member of the board of directors shall be filled pursuant to Section 1778 of the Government Code.

402. (a) For the purposes of the Uniform District Election Law, the district shall be deemed to be a landowner voting district, except that each voter shall have one vote.

(b) In a manner that is consistent with Section 10525 of the Elections Code, for water rights that have multiple holders, the holders shall designate in writing to the district, in accordance with a timetable established by the district, a voter from among their number for voting purposes.

403. (a) The board of directors shall do all of the following:

(1) Act only by ordinance, resolution, or motion.

(2) Keep a record of all of its actions, including financial transactions.

(3) Adopt rules or bylaws for its proceedings.

(4) Adopt policies for the operation of the district.

(b) The board of directors may do all of the following:

(1) Provide, by ordinance or resolution, that its members may receive their actual and necessary traveling and incidental expenses incurred while on official business. Reimbursement of these expenses is subject to Section 53232.3 of the Government Code. A member of the board of directors may waive any or all of the payments permitted by this paragraph.

(2) Require any employee, officer, or member of the board of directors to be bonded. The district shall pay the cost of the bonds.

(c) Prior to taking office, each director shall take the official oath and execute any bond that may be set by the board.

404. At the first meeting of the board of directors, and at the first annual meeting each year thereafter, the board of directors shall elect a chairperson and vice chairperson from among its members. The board of directors shall appoint a secretary of the district. The secretary of the district may be a member of the board of directors or a district employee.

405. Meetings of the board shall be held pursuant to the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code).

406. The district shall have the following powers:

(a) Adopt ordinances in accordance with Article 7 (commencing with Section 25120) of Chapter 1 of Part 2 of Division 2 of Title 3 of the Government Code.

(b) Adopt and enforce rules and regulations for the administration, operation, use, and maintenance of the district's facilities and property.

(c) Sue and be sued in its own name.

(d) Acquire any real or personal property within the district, by contract or otherwise, to hold, manage, occupy, dispose of, convey and encumber the property, and to create a leasehold interest in the property for the benefit of the district. The district shall not have the power of eminent domain.

(e) Appoint employees, define their qualifications and duties, and provide a schedule of compensation for performance of their duties.

(f) Engage counsel and other professional services.

(g) Enter into and perform all contracts. The district shall follow the procedures that apply to the county, including, but not limited to, the requirements of Article 3.6 (commencing with Section 20150) of Chapter 1 of Part 3 of Division 2 of the Public Contract Code.

(h) Adopt a seal and alter it.

(i) Take any and all actions necessary for, or incidental to, the powers expressed or implied by this act.

407. (a) The board of directors shall provide for the preparation of regular audits of the district's accounts and records pursuant to Section 26909 of the Government Code.

(b) The board of directors shall provide for the preparation of annual financial reports to the Controller pursuant to Article 9 (commencing with Section 53890) of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code.

408. All claims for money or damages against the district are governed by Part 3 (commencing with Section 900) and Part 4 (commencing with Section 940) of Division 3.6 of Title 1 of the Government Code.

409. The district is not subject to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Division 3 (commencing with Section 56000) of Title 5 of the Government Code).

410. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

Article 5. Powers and Duties

501. The district shall serve as the watermaster for any appointed decree, including, but not limited to, taking specific actions ordered by the court in the administration of that decree or decrees.

502. (a) In carrying out its duties as watermaster, the district shall have the powers and duties that are set forth as powers and duties of the department in Part 4 (commencing with Section 4000) of Division 2 of the Water Code, except as modified by the court, and as follows:

(1) References to the department in that part shall be deemed to be references to the district.

(2) References to the Water Resources Revolving Fund in that part shall be deemed to be references to the fund.

(b) Charges levied by the district shall comply with Article XIII D of the California Constitution.

503. The district may enter into an agreement to provide watermaster service to the holders of water rights whose place of use is an eligible parcel if all the holders have executed the agreement. An agreement to provide watermaster services to an eligible parcel shall include a provision that the water right holders agree to pay in full for the service prior to the provision of service. The amount to be paid shall be determined to ensure that the provision of the watermaster service to contracted parcels does not increase the cost of the watermaster service to appointed parcels.

504. Amounts owed to the county for services provided to the district by the county shall be included in the district's budget for each watermaster service area. The watermaster service areas for which these amounts have been incurred shall be identified and accounted for in the budget.

SEC. 2. The Legislature finds and declares that this act, which is applicable only to the Scott Valley and Shasta Valley Watermaster District, is necessary because of the unique and special water problems in the area included in the district. It is, therefore, hereby declared that a general law within the meaning of Section 16 of Article IV of the California Constitution cannot be made applicable to the district and the

enactment of this special law is necessary for the conservation, development, control, and use of that water for the public good.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

CHAPTER 417

An act to amend Section 19517.5 of the Business and Professions Code, relating to horse racing.

[Approved by Governor October 10, 2007. Filed with Secretary of State October 10, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 19517.5 of the Business and Professions Code is amended to read:

19517.5. (a) The respondent in an enforcement proceeding that alleges the use of a prohibited substance, as defined under class I, class II, or class III of the board's schedule of prohibited substances, may elect to have the proceeding referred, for administrative adjudication and preparation of a proposed decision for action by the board, to either a Board of Stewards or a hearing officer appointed by the board. The board shall select the hearing officer from a pool jointly developed by a representative from each of the following organizations:

(1) The board.

(2) A racing association.

(3) The trainers' organization.

(4) The horse owners' organization.

(b) The hearing before a duly appointed hearing officer or Board of Stewards shall commence no later than 90 days after the filing of the accusation. The hearing date may be extended only upon a showing of good cause to the earliest possible hearing date beyond the 90-day period, provided a written order and the reasons for the continuance are filed with the board.

(c) No later than 20 days before the hearing, the licensee shall post a bond with the paymaster of purses for the amount of the purse or purses

in question and received by the licensee. The bond shall be in cash, or a surety bond that meets the requirements of the board.

CHAPTER 418

An act to amend Section 14103.5 of the Welfare and Institutions Code, relating to Medi-Cal, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 10, 2007. Filed with Secretary of State October 10, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 14103.5 of the Welfare and Institutions Code is amended to read:

14103.5. (a) A noncontract hospital that is in a closed health facility planning area is not eligible to receive reimbursement for services provided to a Medi-Cal beneficiary, unless either of the following apply:

(1) The noncontract hospital provides necessary emergency services to a Medi-Cal beneficiary who is in a life threatening or emergency situation, but cannot be sufficiently stabilized in order to facilitate transport to a contracting hospital.

(2) The noncontract hospital is a facility location of a nonprofit hospital that is an affiliate of a nonprofit health care service plan, the facility location is approved in accordance with the standards of the California Children's Services (CCS) program, and the hospital is providing medically necessary services for treatment of the CCS-eligible condition of a patient when all of the following apply:

(A) The patient is eligible for services under the California Children's Services Act (Article 5 (commencing with Section 123800) of Chapter 3 of Part 2 of Division 106 of the Health and Safety Code) as well as the Medi-Cal program.

(B) The patient is a member of the health care services plan for other health care services not related to the CCS condition.

(C) The services for treatment of the CCS-eligible patient are authorized by the CCS program.

(b) A noncontract hospital in a closed health facility planning area that provides necessary emergency services to a Medi-Cal beneficiary who is in a life threatening or emergency situation, but cannot be sufficiently stabilized in order to facilitate transport to a contracting

hospital, may only be reimbursed for those necessary emergency services when it obtains an approved treatment authorization request.

(c) Any treatment authorization request submitted for any service classified as a necessary emergency service, which would have been subject to prior authorization had it not been so classified, shall be supported by the attending physician's statement that does all of the following:

(1) Describes in detail the nature of the emergency or life threatening situation, including relevant clinical information about the patient's condition.

(2) States why the patient could not be sufficiently stabilized for transport to a contracting hospital and why the necessary emergency services rendered were considered to be immediately required. A mere statement that an emergency existed is not sufficient. The treatment authorization request shall be comprehensive enough to support a finding that an emergency or a life threatening situation existed.

(3) Contains the signature of the attending physician who had direct knowledge of the emergency described in the statement.

(d) For the purposes of this section, "necessary emergency services" are limited to those health services medically necessary for alleviation of severe pain or immediate diagnosis and treatment of unforeseen medical conditions which, if not immediately diagnosed and treated, could lead to significant disability or death.

(e) For the purposes of this section, a "noncontract hospital" means a hospital that has not contracted with the department pursuant to Article 2.6 (commencing with Section 14081) for the provision of inpatient services to Medi-Cal beneficiaries.

(f) Nothing in this section shall be construed as limiting reimbursement for medically necessary care following stabilization, in the event that a contract hospital does not accept transfer of the patient or pending the transfer to a contract hospital.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure that children receiving Medi-Cal services, who have a CCS-eligible condition, and who are in fragile medical condition, are not needlessly transported from one hospital to another, disrupting families and disrupting continuity of care.

CHAPTER 419

An act to amend Section 103 of, to amend the heading of Chapter 3.5 (commencing with Section 2300) of Division 3 of, and to add and repeal Section 2301 of, the Fish and Game Code, relating to fish and game, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 10, 2007. Filed with Secretary of State October 10, 2007.]

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) Mussels of the genus Dreissena (dreissenid mussels) are a harmful, highly invasive species, and not native to California.

(b) Dreissenid mussels, which include both zebra and quagga mussels, were first discovered in the United States in the Great Lakes in or around 1988. This infestation has caused billions of dollars in costs to public agencies and private industry. Dreissenid mussels have been detected in Lake Mead on the Arizona-Nevada border and in Lake Havasu in California.

(c) Dreissenid mussels can readily move from place to place as free-swimming larvae and adults, and reproduce rapidly and in large numbers. Dreissenid mussels can severely hinder the delivery of water due to the mussels' capacity to clog or foul pipes, pumps, and other water intake structures, water delivery systems, powerplant intakes, cooling systems, and fish screens. Dreissenid mussels damage the hulls, propellers, and motors of boats and other watercraft.

(d) Dreissenid mussels alter the natural food web of aquatic ecosystems. By filtering planktonic algae and other nutrients that are the primary base of the food chain from the water, dreissenid mussels can cause the decline or extirpation of native species, and otherwise disrupt the ecological balance of infested water bodies.

(e) Dreissenid mussels' sharp-edged shells along swimming beaches can be a hazard to unprotected feet.

(f) In order to protect and preserve the health and safety of the people of the State of California, its economy, and its fish and wildlife resources, it is the intent of the Legislature to establish an effective program to prevent additional dreissenid mussels from entering the state, to prevent dreissenid mussels from being introduced into any water in California where they currently do not exist, and to detect and destroy dreissenid mussels anywhere in the state. For this purpose, there has been developed a Quagga Mussel Incident Strategic Plan.

SEC. 2. Section 103 of the Fish and Game Code is amended to read:

103. (a) Each of the commissioners shall receive one hundred dollars ($100) for each day of actual service performed in carrying out his or her official duties pursuant to law, but the amount of this compensation shall not exceed for any one commissioner the sum of five hundred dollars ($500) for any one calendar month. In addition to this compensation, the commissioners shall receive their actual and necessary expenses incurred in the performance of their duties.

(b) The compensation and expenses provided in this section shall be paid out of the Fish and Game Preservation Fund.

SEC. 3. The heading of Chapter 3.5 (commencing with Section 2300) of Division 3 of the Fish and Game Code is amended to read:

Chapter 3.5. Aquatic Invasive Species

SEC. 4. Section 2301 is added to the Fish and Game Code, to read:

2301. (a) (1) Except as authorized by the department, a person shall not possess, import, ship, or transport in the state, or place, plant, or cause to be placed or planted in any water within the state, dreissenid mussels.

(2) The director or his or her designee may do all of the following:

(A) Conduct inspections of conveyances, which include vehicles, boats and other watercraft, containers, and trailers, that may carry or contain adult or larval dreissenid mussels. Included as part of this authority to conduct inspections is the authority to temporarily stop conveyances that may carry or contain adult or larval dreissenid mussels on any roadway or waterway in order to conduct inspections.

(B) Order that areas in a conveyance that contain water be drained, dried, or decontaminated pursuant to procedures approved by the department.

(C) Impound or quarantine conveyances in locations designated by the department for up to five days or the period of time necessary to ensure that dreissenid mussels can no longer live on or in the conveyance.

(D) (i) Conduct inspections of waters of the state and facilities located within waters of the state that may contain dreissenid mussels. If dreissenid mussels are detected or may be present, the director or his or her designee may order the affected waters or facilities closed to conveyances or otherwise restrict access to the affected waters or facilities, and shall order that conveyances removed from, or introduced to, the affected waters or facilities be inspected, quarantined, or disinfected in a manner and for a duration necessary to detect and prevent the spread of dreissenid mussels within the state.

(ii) For the purpose of implementing clause (i), the director or his or her designee shall order the closure or quarantine of, or restrict access to, these waters, areas, or facilities in a manner and duration necessary to detect and prevent the spread of dreissenid mussels within the state. No closure, quarantine, or restriction shall be authorized by the director or his or her designee without the concurrence of the Secretary of the Resources Agency. If a closure lasts longer than seven days, the department shall update the operator of the affected facility every 10 days on efforts to address the dreissenid infestation. The department shall provide these updates in writing and also post these updates on the department's Internet Web site in an easily accessible manner.

(iii) The department shall develop procedures to ensure proper notification of affected local and federal agencies, and, as appropriate, the Department of Boating and Waterways, the Department of Water Resources, the Department of Parks and Recreation, and the State Lands Commission in the event of a decision to close, quarantine, or restrict a facility pursuant to this paragraph. These procedures shall include the reasons for the closure, quarantine, or restriction, and methods for providing updated information to those affected. These procedures shall also include protocols for the posting of the notifications on the department's Internet Web site required by clause (ii).

(iv) When deciding the scope, duration, level, and type of restrictions, and specific location of a closure or quarantine, the director shall consult with the agency, entity, owner, or operator with jurisdiction, control, or management responsibility over the marina, boat launch facility, or other facility, in order to focus the closure or quarantine to specific areas and facilities so as to avoid or minimize disruption of economic or recreational activity in the vicinity.

(b) (1) Upon a determination by the director that it would further the purposes of this section, other state agencies, including, but not limited to, the Department of Parks and Recreation, the Department of Water Resources, the Department of Food and Agriculture, and the State Lands Commission, may exercise the authority granted to the department in subdivision (a).

(2) A determination made pursuant to paragraph (1) shall be in writing and shall remain in effect until withdrawn, in writing, by the director.

(c) (1) Except as provided in paragraph (2), Division 13 (commencing with Section 21000) of the Public Resources Code does not apply to the implementation of this section.

(2) An action undertaken pursuant to subparagraph (B) of paragraph (2) of subdivision (a) involving the use of chemicals other than salt or hot water to decontaminate a conveyance or a facility is subject to

Division 13 (commencing with Section 21000) of the Public Resources Code.

(d) (1) A public or private agency that operates a water supply system shall cooperate with the department to implement measures to avoid infestation by dreissenid mussels and to control or eradicate any infestation that may occur in a water supply system. If dreissenid mussels are detected, the operator of the water supply system, in cooperation with the department, shall prepare and implement a plan to control or eradicate dreissenid mussels within the system. The approved plan shall contain the following minimum elements:

(A) Methods for delineation of infestation, including both adult mussels and veligers.

(B) Methods for control or eradication of adult mussels and decontamination of water containing larval mussels.

(C) A systematic monitoring program to determine any changes in conditions.

(D) The requirement that the operator of the water supply system cooperate with the department to update or revise control or eradication measures in the approved plan to address scientific advances in the methods of controlling or eradicating mussels and veligers.

(2) Paragraph (2) of subdivision (a) does not apply to the operation of water delivery and storage facilities for the purposes of providing water supply if the operator of the facilities has prepared and implemented a plan to control or eradicate dreissenid mussels in accordance with paragraph (1). The department may require the operator of a facility to update its plan, and if the plan is not updated or revised as described in subparagraph (D) of paragraph (1), the department may engage in the actions described in paragraph (2) of subdivision (a).

(e) Any entity that discovers dreissenid mussels within this state shall immediately report the discovery to the department.

(f) (1) In addition to any other penalty provided by law, any person who violates this section, any verbal or written order or regulation adopted pursuant to this section, or who resists, delays, obstructs, or interferes with the implementation of this section, is subject to a penalty, in an amount not to exceed one thousand dollars ($1,000), that is imposed administratively by the department.

(2) A penalty shall not be imposed pursuant to paragraph (1) unless the department has adopted regulations specifying the amount of the penalty and the procedure for imposing and appealing the penalty.

(g) The department may adopt regulations to carry out this section.

(h) This section shall remain in effect only until January 1, 2012, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2012, deletes or extends that date.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 6. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to minimize the adverse impacts caused by dreissenid mussels, including impacts on water service deliveries, watercraft, recreational swimmers, and aquatic ecosystems, as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 420

An act to amend Section 12022.6 of the Penal Code, relating to sentencing.

[Approved by Governor October 10, 2007. Filed with Secretary of State October 10, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 12022.6 of the Penal Code is amended to read:

12022.6. (a) When any person takes, damages, or destroys any property in the commission or attempted commission of a felony, with the intent to cause that taking, damage, or destruction, the court shall impose an additional term as follows:

(1) If the loss exceeds sixty-five thousand dollars ($65,000), the court, in addition and consecutive to the punishment prescribed for the felony or attempted felony of which the defendant has been convicted, shall impose an additional term of one year.

(2) If the loss exceeds two hundred thousand dollars ($200,000), the court, in addition and consecutive to the punishment prescribed for the felony or attempted felony of which the defendant has been convicted, shall impose an additional term of two years.

(3) If the loss exceeds one million three hundred thousand dollars ($1,300,000), the court, in addition and consecutive to the punishment

prescribed for the felony or attempted felony of which the defendant has been convicted, shall impose an additional term of three years.

(4) If the loss exceeds three million two hundred thousand dollars ($3,200,000), the court, in addition and consecutive to the punishment prescribed for the felony or attempted felony of which the defendant has been convicted, shall impose an additional term of four years.

(b) In any accusatory pleading involving multiple charges of taking, damage, or destruction, the additional terms provided in this section may be imposed if the aggregate losses to the victims from all felonies exceed the amounts specified in this section and arise from a common scheme or plan. All pleadings under this section shall remain subject to the rules of joinder and severance stated in Section 954.

(c) The additional terms provided in this section shall not be imposed unless the facts of the taking, damage, or destruction in excess of the amounts provided in this section are charged in the accusatory pleading and admitted or found to be true by the trier of fact.

(d) This section applies to, but is not limited to, property taken, damaged, or destroyed in violation of Section 502 or subdivision (b) of Section 502.7. This section shall also apply to applicable prosecutions for a violation of Section 350, 653h, 653s, or 653w.

(e) For the purposes of this section, the term "loss" has the following meanings:

(1) When counterfeit items of computer software are manufactured or possessed for sale, the "loss" from the counterfeiting of those items shall be equivalent to the retail price or fair market value of the true items that are counterfeited.

(2) When counterfeited but unassembled components of computer software packages are recovered, including, but not limited to, counterfeited computer diskettes, instruction manuals, or licensing envelopes, the "loss" from the counterfeiting of those components of computer software packages shall be equivalent to the retail price or fair market value of the number of completed computer software packages that could have been made from those components.

(f) It is the intent of the Legislature that the provisions of this section be reviewed within 10 years to consider the effects of inflation on the additional terms imposed. For that reason this section shall remain in effect only until January 1, 2018, and as of that date is repealed unless a later enacted statute, which is enacted before January 1, 2018, deletes or extends that date.

SEC. 2. It is the intent of the Legislature that the amendments to Section 12022.6 of the Penal Code by this act apply prospectively only and shall not be interpreted to benefit any defendant who committed any crime or received any sentence before the effective date of this act.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CHAPTER 421

An act to add Section 224.5 to, and to amend, repeal, and add Section 224 of, the Food and Agricultural Code, relating to agriculture, and making an appropriation therefor.

[Approved by Governor October 10, 2007. Filed with Secretary of State October 10, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 224 of the Food and Agricultural Code is amended to read:

224. Money transferred by the Controller to the Department of Food and Agriculture Fund from the Motor Vehicle Fuel Account pursuant to Section 8352.5 of the Revenue and Taxation Code shall be expended by the Secretary of Food and Agriculture as follows:

(a) Five hundred thousand dollars ($500,000) of the amount transferred each fiscal year is hereby appropriated for reimbursement for charges for state administrative costs, and for departmental and divisional overhead expense apportioned to the Department of Food and Agriculture Fund.

(b) One million dollars ($1,000,000) each fiscal year is hereby appropriated to be used only for emergency detection, eradication, or research of agricultural plant or animal pests or diseases, during the fiscal year. The Secretary of Food and Agriculture may expend the funds with the approval of the Director of Finance. At the end of each fiscal year, any unencumbered balance of those funds shall be added to the amount available for payment to counties during the next fiscal year, as provided in subdivision (c).

(c) The total amount transferred during each fiscal year less the amounts provided in subdivisions (a) and (b), is hereby appropriated to be paid to the counties as partial reimbursement for county expenses for

carrying out agricultural programs authorized by this code that are supervised by the department. The payment shall be apportioned to the counties by the secretary in relation to each county's expenditures to the total amount expended by all counties for the preceding fiscal year for such agricultural programs, as determined by the secretary. The amount to be transferred to any county for a fiscal year may be increased or decreased by the secretary to provide that, insofar as those transferred unclaimed refundable gas tax funds for apportionment to the counties are available, no county shall receive smaller combined apportionments of gas taxes and unclaimed refundable gas taxes than that county would have received had the gas taxes been apportioned without the transfer required by Section 8352.5, as determined by the secretary, except that the amount of unclaimed refundable gas tax funds to be transferred to any county for a fiscal year may be increased or decreased by the secretary to compensate for incorrect previous transfers to that county.

(d) This section shall become inoperative on July 1, 2008, and shall be repealed on January 1, 2009.

SEC. 2. Section 224 is added to the Food and Agricultural Code, to read:

224. Moneys transferred by the Controller to the Department of Food and Agriculture Fund from the Motor Vehicle Fuel Account pursuant to Section 8352.5 of the Revenue and Taxation Code shall be expended by the Secretary of Food and Agriculture as follows:

(a) Of the amount transferred each fiscal year, nine million dollars ($9,000,000) is hereby appropriated to the Department of Food and Agriculture for payment to the counties for pesticide use enforcement programs supervised by the Director of Pesticide Regulation. Reimbursement shall be apportioned to the counties in relation to each county's expenditures to the total amount expended by all counties for the preceding fiscal year for pesticide use enforcement programs, as determined by the director, or with the collective agreement of the agricultural commissioners, disbursement to counties for a current fiscal year according to criteria developed in work plans, or any combination of reimbursement and disbursement as agreed upon by the director and the commissioners. The amount to be transferred to any county for a fiscal year may be increased or decreased by the director to compensate for incorrect previous transfers to that county, or adjusted based on evaluations of annual county Pesticide Enforcement Workplans conducted by the Department of Pesticide Regulation.

(b) Of the amount transferred each fiscal year, two hundred fifty thousand dollars ($250,000) is hereby appropriated to the Department of Food and Agriculture for state and county liaison activities and for departmental expenses directly related to administration of this section.

(c) Of the amount transferred each fiscal year, one million five hundred thousand dollars ($1,500,000) is hereby appropriated to the department for divisional and departmental overhead charges to the Department of Food and Agriculture.

(d) Of the amount transferred each fiscal year in excess of the amount transferred in the 2006–07 fiscal year, 7 percent is hereby appropriated to the department for full disbursement to individual counties, in proportion to the distribution each county is to receive pursuant to subdivision (g) to offset expenses associated with programs, personnel, and materials that ensure the uniform application of state agricultural policy or administer programs supervised by the secretary.

(e) Notwithstanding any other provision of law, of the amount transferred each fiscal year, three million dollars ($3,000,000) is hereby appropriated for distribution to counties in a manner prescribed by the secretary for pest detection or trapping programs. These funds are intended to supplement funds available for pest detection or trapping in the annual Budget Act. As a condition of receiving these funds, counties shall not reduce their level of support from any other funds for pest detection or trapping programs. If a county declines to participate in a pest detection or trapping program, or fails to conduct the program to the state's satisfaction, the secretary shall reduce, by the amount that would otherwise be allocated to the county, funds available pursuant to this subdivision and any state allocations from the annual Budget Act. Those forfeited funds are hereby appropriated to the Department of Food and Agriculture for purposes of operating the pest detection or trapping programs in those counties.

(f) (1) Of the amount transferred each fiscal year, three million dollars ($3,000,000) is hereby appropriated to the Department of Food and Agriculture to be used for emergency detection, investigation, or eradication of agricultural plant or animal pests or diseases during the fiscal year, upon approval of the Director of Finance. At the end of each fiscal year, any unencumbered balance of these funds shall be carried over to the next fiscal year, or at the discretion of the secretary, may be used for planning and research involving detection, investigation, eradication, and methods of quarantine compliance for agricultural plant or animal pests or diseases.

(2) The department shall develop policies, in consultation with the agricultural commissioners and in compliance with any requirements of the annual Budget Act, to guide the ongoing use of these funds.

(g) The total amount transferred during each fiscal year less the amounts provided in subdivisions (a) to (f), inclusive, is hereby appropriated to be paid to the counties for agricultural programs authorized by this code that are supervised by the department and

administered by agricultural commissioners. Reimbursement shall be apportioned to the counties in relation to each county's expenditures to the total amount expended by all counties for the preceding fiscal year for agricultural programs, as determined by the secretary, or with the collective agreement of the agricultural commissioners, disbursement to counties according to criteria developed in work plans for a current fiscal year, or any combination of reimbursement and disbursement as agreed upon by the secretary and the commissioners. The amount to be transferred to any county for a fiscal year may be increased or decreased by the secretary to provide that, insofar as those transferred unclaimed refundable gas tax funds for apportionment to the counties are available, no county shall receive smaller combined apportionments of gas taxes and unclaimed refundable gas taxes than that county would have received had the gas taxes been apportioned without the transfer required by Section 8352.5, as determined by the secretary, except that the amount of unclaimed refundable gas tax funds to be transferred to any county for a fiscal year may be increased or decreased by the secretary to compensate for incorrect previous transfers to that county, and to account for any failure to meet the criteria listed in Section 224.5.

(h) This section shall become operative on July 1, 2008.

SEC. 3. Section 224.5 is added to the Food and Agricultural Code, to read:

224.5. (a) In order to be eligible for the transfer specified in subdivision (g) of Section 224, counties must meet all of the following criteria, as determined by the secretary:

(1) Currently employ or contract with a licensed agricultural commissioner.

(2) Submit annual agricultural expenditure reports to the department in a timely manner.

(3) Maintain county general fund support for agricultural commissioner services at least equal to the average amount expended for the five preceding fiscal years, unless the county is facing unusual economic hardship that precludes that support.

(b) In the event that a county does not meet the criteria listed in subdivision (a) in a timely fashion, nothing shall preclude the secretary from completing transfers only to those counties that have met the criteria, while reserving funds for distribution to counties that may later be determined to have met them, or to set a date certain each fiscal year by which all available funds will be distributed to the counties that have met the criteria.

(c) This section shall become operative on July 1, 2008.

CHAPTER 422

An act to amend Sections 6091.2, 6211, 6212, and 6213 of the Business and Professions Code, relating to attorneys.

[Approved by Governor October 10, 2007. Filed with Secretary of State October 10, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 6091.2 of the Business and Professions Code is amended to read:

6091.2. As used in Section 6091.1:

(a) "Financial institution" means a bank, savings and loan, or other financial institution serving as a depository for attorney trust accounts under subdivision (a) or (b) of Section 6211.

(b) "Properly payable" means an instrument that, if presented in the normal course of business, is in a form requiring payment under the laws of this state.

(c) "Notice of dishonor" means the notice that a financial institution is required to give, under the laws of this state, upon presentation of an instrument that the institution dishonors.

SEC. 2. Section 6211 of the Business and Professions Code is amended to read:

6211. (a) An attorney or law firm that, in the course of the practice of law, receives or disburses trust funds shall establish and maintain an IOLTA account in which the attorney or law firm shall deposit or invest all client deposits or funds that are nominal in amount or are on deposit or invested for a short period of time. All such client funds may be deposited or invested in a single unsegregated account. The interest and dividends earned on all those accounts shall be paid to the State Bar of California to be used for the purposes set forth in this article.

(b) Nothing in this article shall be construed to prohibit an attorney or law firm from establishing one or more interest bearing bank trust deposit accounts or dividend-paying trust investment accounts as may be permitted by the Supreme Court, with the interest or dividends earned on the accounts payable to clients for trust funds not deposited or invested in accordance with subdivision (a).

(c) With the approval of the Supreme Court, the State Bar may formulate and enforce rules of professional conduct pertaining to the use by attorneys or law firms of an IOLTA account for unsegregated client funds pursuant to this article.

(d) Nothing in this article shall be construed as affecting or impairing the disciplinary powers and authority of the Supreme Court or of the State Bar or as modifying the statutes and rules governing the conduct of members of the State Bar.

SEC. 3. Section 6212 of the Business and Professions Code is amended to read:

6212. An attorney who, or a law firm that, establishes an IOLTA account pursuant to subdivision (a) of Section 6211 shall comply with all of the following provisions:

(a) The IOLTA account shall be established and maintained with an eligible institution offering or making available an IOLTA account that meets the requirements of this article. The IOLTA account shall be established and maintained consistent with the attorney or law firm's duties of professional responsibility. An eligible financial institution shall have no responsibility for selecting the deposit or investment product chosen for the IOLTA account.

(b) Except as provided in subdivision (e), the rate of interest or dividends payable on any IOLTA account shall not be less than the interest rate or dividends generally paid by the eligible institution to nonattorney customers on accounts of the same type meeting the same minimum balance and other eligibility requirements as the IOLTA account. In determining the interest rate or dividend payable on any IOLTA account, an eligible institution may consider, in addition to the balance in the IOLTA account, risk or other factors customarily considered by the eligible institution when setting the interest rate or dividends for its non-IOLTA accounts, provided that the factors do not discriminate between IOLTA customers and non-IOLTA customers and that these factors do not include the fact that the account is an IOLTA account. The eligible institution shall calculate interest and dividends in accordance with its standard practice for non-IOLTA customers. Nothing in this article shall preclude an eligible institution from paying a higher interest rate or dividend on an IOLTA account or from electing to waive any fees and service charges on an IOLTA account.

(c) Reasonable fees may be deducted from the interest or dividends remitted on an IOLTA account only at the rates and in accordance with the customary practices of the eligible institution for non-IOLTA customers. No other fees or service charges may be deducted from the interest or dividends earned on an IOLTA account. Unless and until the State Bar enacts regulations exempting from compliance with subdivision (a) of Section 6211 those accounts for which maintenance fees exceed the interest or dividends paid, an eligible institution may deduct the fees and service charges in excess of the interest or dividends paid on an IOLTA account from the aggregate interest and dividends remitted to

the State Bar. Any fees and service charges other than reasonable fees shall be the sole responsibility of, and may only be charged to, the lawyer or law firm maintaining the IOLTA account. No fees or charges may be assessed against or deducted from the principal of any IOLTA account. It is the intent of the Legislature that the State Bar develop policies so that eligible institutions not incur uncompensated administrative costs in adapting their systems to comply with the provisions of Assembly Bill 1723 of the 2007–08 Regular Session or in making investment products available to IOLTA members.

(d) The eligible institution shall be directed to do all of the following:

(1) To remit interest or dividends on the IOLTA account, less reasonable fees, to the State Bar, at least quarterly.

(2) To transmit to the State Bar with each remittance a statement showing the name of the attorney or law firm for whom the remittance is sent, for each account the rate of interest applied or dividend paid, the amount and type of fees deducted, if any, and the average balance for each account for each month of the period for which the report is made.

(3) To transmit to the attorney or law firm customer at the same time a report showing the amount paid to the State Bar for that period, the rate of interest or dividend applied, the amount of fees and service charges deducted, if any, and the average daily account balance for each month of the period for which the report is made.

(e) An eligible institution has no affirmative duty to offer or make investment products available to IOLTA customers. However, if an eligible institution offers or makes investment products available to non-IOLTA customers, in order to remain an IOLTA eligible institution, it shall make those products available to IOLTA customers or pay an interest rate on the IOLTA deposit account that is comparable to the rate of return or the dividends generally paid on that investment product for similar customers meeting the same minimum balance and other requirements applicable to the investment product. If the eligible institution elects to pay that higher interest rate, the eligible institution may subject the IOLTA deposit account to equivalent fees and charges assessable against the investment product.

SEC. 4. Section 6213 of the Business and Professions Code is amended to read:

6213. As used in this article:

(a) "Qualified legal services project" means either of the following:

(1) A nonprofit project incorporated and operated exclusively in California which provides as its primary purpose and function legal services without charge to indigent persons and which has quality control procedures approved by the State Bar of California.

(2) A program operated exclusively in California by a nonprofit law school accredited by the State Bar of California which meets the requirements of subparagraphs (A) and (B).

(A) The program shall have operated for at least two years at a cost of at least twenty thousand dollars ($20,000) per year as an identifiable law school unit with a primary purpose and function of providing legal services without charge to indigent persons.

(B) The program shall have quality control procedures approved by the State Bar of California.

(b) "Qualified support center" means an incorporated nonprofit legal services center, which has as its primary purpose and function the provision of legal training, legal technical assistance, or advocacy support without charge and which actually provides through an office in California a significant level of legal training, legal technical assistance, or advocacy support without charge to qualified legal services projects on a statewide basis in California.

(c) "Recipient" means a qualified legal services project or support center receiving financial assistance under this article.

(d) "Indigent person" means a person whose income is (1) 125 percent or less of the current poverty threshold established by the United States Office of Management and Budget, or (2) who is eligible for Supplemental Security Income or free services under the Older Americans Act or Developmentally Disabled Assistance Act. With regard to a project which provides free services of attorneys in private practice without compensation, "indigent person" also means a person whose income is 75 percent or less of the maximum levels of income for lower income households as defined in Section 50079.5 of the Health and Safety Code. For the purpose of this subdivision, the income of a person who is disabled shall be determined after deducting the costs of medical and other disability-related special expenses.

(e) "Fee generating case" means any case or matter that, if undertaken on behalf of an indigent person by an attorney in private practice, reasonably may be expected to result in payment of a fee for legal services from an award to a client, from public funds, or from the opposing party. A case shall not be considered fee generating if adequate representation is unavailable and any of the following circumstances exist:

(1) The recipient has determined that free referral is not possible because of any of the following reasons:

(A) The case has been rejected by the local lawyer referral service, or if there is no such service, by two attorneys in private practice who have experience in the subject matter of the case.

(B) Neither the referral service nor any attorney will consider the case without payment of a consultation fee.

(C) The case is of the type that attorneys in private practice in the area ordinarily do not accept, or do not accept without prepayment of a fee.

(D) Emergency circumstances compel immediate action before referral can be made, but the client is advised that, if appropriate and consistent with professional responsibility, referral will be attempted at a later time.

(2) Recovery of damages is not the principal object of the case and a request for damages is merely ancillary to an action for equitable or other nonpecuniary relief, or inclusion of a counterclaim requesting damages is necessary for effective defense or because of applicable rules governing joinder of counterclaims.

(3) A court has appointed a recipient or an employee of a recipient pursuant to a statute or a court rule or practice of equal applicability to all attorneys in the jurisdiction.

(4) The case involves the rights of a claimant under a publicly supported benefit program for which entitlement to benefit is based on need.

(f) "Legal Services Corporation" means the Legal Services Corporation established under the Legal Services Corporation Act of 1974 (Public Law 93-355; 42 U.S.C. Sec. 2996 et seq.).

(g) "Older Americans Act" means the Older Americans Act of 1965, as amended (Public Law 89-73; 42 U.S.C. Sec. 3001 et seq.).

(h) "Developmentally Disabled Assistance Act" means the Developmentally Disabled Assistance and Bill of Rights Act of 1975, as amended (Public Law 94-103; 42 U.S.C. Sec. 6001 et seq.).

(i) "Supplemental security income recipient" means an individual receiving or eligible to receive payments under Title XVI of the federal Social Security Act, or payments under Chapter 3 (commencing with Section 12000) of Part 3 of Division 9 of the Welfare and Institutions Code.

(j) "IOLTA account" means an account or investment product established and maintained pursuant to subdivision (a) of Section 6211 that is any of the following:

(1) An interest-bearing checking account.

(2) An investment sweep product that is a daily (overnight) financial institution repurchase agreement or an open-end money-market fund.

(3) Any other investment product authorized by California Supreme Court rule or order.

A daily financial institution repurchase agreement shall be fully collateralized by United States Government Securities or other comparably conservative debt securities, and may be established only

with any eligible institution that is "well-capitalized" or "adequately capitalized" as those terms are defined by applicable federal statutes and regulations. An open-end money-market fund shall be invested solely in United States Government Securities or repurchase agreements fully collateralized by United States Government Securities or other comparably conservative debt securities, shall hold itself out as a "money-market fund" as that term is defined by federal statutes and regulations under the Investment Company Act of 1940 (15 U.S.C. Sec. 80a-1 et seq.), and, at that time of the investment, shall have total assets of at least two hundred fifty million dollars ($250,000,000).

(k) "Eligible institution" means a bank or any other type of financial institution authorized by the Supreme Court.

CHAPTER 423

An act to amend Section 5520 of the Public Resources Code, relating to districts.

[Approved by Governor October 10, 2007. Filed with Secretary of State October 10, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 5520 of the Public Resources Code is amended to read:

5520. The election returns shall be forwarded to the board of supervisors of the county having the largest area within the proposed district at the conclusion of the canvass, pursuant to Section 15372 of the Elections Code. At the next meeting after the receipt of the election returns, the board shall certify the results of the election. If a majority of those who have voted on the proposition vote in favor of the creation of the district the board of supervisors shall order and declare the district created.

If it appears from the canvass that a majority of the electors voting at the election have voted against the formation of the district, the proceedings fail entirely, and there shall be no similar proceedings instituted within that territory within six months from the date of the election.

CHAPTER 424

An act relating to health facilities, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 10, 2007. Filed with Secretary of State October 10, 2007.]

The people of the State of California do enact as follows:

SECTION 1. (a) Notwithstanding any other provision of law, the amendments enacted by Chapter 714 of the Statutes of 2006 (Assembly Bill No. 1341 of the 2005–06 Regular Session) to subdivision (b) of Section 94212 of the Education Code shall not apply to a private nonprofit university medical education project consisting of a single building if the State Treasurer determines that the university received from an underwriting firm a draft engagement agreement that was dated September 25, 2006, and that was subsequently entered into by the university, for purposes that included the issuance of bonds by the California Educational Facilities Authority for that project based on the requirements of that subdivision as that subdivision read from January 1, 1987, to September 28, 2006, inclusive.

(b) This section shall become inoperative on July 1, 2008, and, as of January 1, 2009, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2009, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that a medical education project may be financed to provide necessary health care in a timely fashion in an underserved community, it is necessary for this act to go into effect immediately.

CHAPTER 425

An act to add Article 2.5 (commencing with Section 118947) to Chapter 4 of Part 15 of Division 104 of the Health and Safety Code, and to amend Section 12814.6 of the Vehicle Code, relating to public health.

[Approved by Governor October 10, 2007. Filed with Secretary of State October 10, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Article 2.5 (commencing with Section 118947) is added to Chapter 4 of Part 15 of Division 104 of the Health and Safety Code, to read:

Article 2.5. Smoking in Motor Vehicles

118947. This act shall be known, and may be cited, as the Marco Firebaugh Memorial Children's Health and Safety Act of 2007.

118948. (a) It is unlawful for a person to smoke a pipe, cigar, or cigarette in a motor vehicle, whether in motion or at rest, in which there is a minor.

(b) For the purposes of this section, "to smoke" means to have in one's immediate possession a lighted pipe, cigar, or cigarette containing tobacco or any other plant.

(c) A violation of this section is an infraction punishable by a fine not exceeding one hundred dollars ($100) for each violation.

118949. A law enforcement officer shall not stop a vehicle for the sole purpose of determining whether the driver is in violation of this article.

SEC. 2. Section 12814.6 of the Vehicle Code is amended to read:

12814.6. (a) Except as provided in Section 12814.7, a driver's license issued to a person at least 16 years of age but under 18 years of age shall be issued pursuant to the provisional licensing program contained in this section. The program shall consist of all of the following components:

(1) Upon application for an original license, the applicant shall be issued an instruction permit pursuant to Section 12509. A person who has in his or her immediate possession a valid permit issued pursuant to Section 12509 may operate a motor vehicle, other than a motorcycle or motorized bicycle, only when the person is either taking the driver training instruction referred to in paragraph (3) or practicing that instruction, provided the person is accompanied by, and is under the immediate supervision of, a California licensed driver 25 years of age or older whose driving privilege is not on probation. The age requirement of this paragraph does not apply if the licensed driver is the parent, spouse, or guardian of the permitholder or is a licensed or certified driving instructor.

(2) The person shall hold an instruction permit for not less than six months prior to applying for a provisional driver's license.

(3) The person shall have complied with one of the following:

(A) Satisfactory completion of approved courses in automobile driver education and driver training maintained pursuant to provisions of the

Education Code in any secondary school of California, or equivalent instruction in a secondary school of another state.

(B) Satisfactory completion of an integrated driver education and training program that is approved by the department and conducted by a driving instructor licensed under Chapter 1 (commencing with Section 11100) of Division 5. The program shall utilize segmented modules, whereby a portion of the educational instruction is provided by, and then reinforced through, specific behind-the-wheel training before moving to the next phase of driver education and training. The program shall contain a minimum of 30 hours of classroom instruction and six hours of behind-the-wheel training.

(C) Satisfactory completion of six hours or more of behind-the-wheel instruction by a driving school or an independent driving instructor licensed under Chapter 1 (commencing with Section 11100) of Division 5 and either an accredited course in automobile driver education in any secondary school of California pursuant to provisions of the Education Code or satisfactory completion of equivalent professional instruction acceptable to the department. To be acceptable to the department, the professional instruction shall meet minimum standards to be prescribed by the department, and the standards shall be at least equal to the requirements for driver education and driver training contained in the rules and regulations adopted by the State Board of Education pursuant to the Education Code. A person who has complied with this subdivision shall not be required by the governing board of a school district to comply with subparagraph (A) in order to graduate from high school.

(D) Except as provided under subparagraph (B), a student may not take driver training instruction, unless he or she has successfully completed driver education.

(4) The person shall complete 50 hours of supervised driving practice prior to the issuance of a provisional license, which is in addition to any other driver training instruction required by law. Not less than 10 of the required practice hours shall include driving during darkness, as defined in Section 280. Upon application for a provisional license, the person shall submit to the department the certification of a parent, spouse, guardian, or licensed or certified driving instructor that the applicant has completed the required amount of driving practice and is prepared to take the department's driving test. A person without a parent, spouse, guardian, or who is an emancipated minor, may have a licensed driver 25 years of age or older or a licensed or certified driving instructor complete the certification. This requirement does not apply to motorcycle practice.

(5) The person shall successfully complete an examination required by the department. Before retaking a test, the person shall wait for not

less than one week after failure of the written test and for not less than two weeks after failure of the driving test.

(b) Except as provided in Section 12814.7, the provisional driver's license shall be subject to all of the following restrictions:

(1) Except as specified in paragraph (2), during the first 12 months after issuance of a provisional license the licensee may not do any of the following unless accompanied and supervised by a licensed driver who is the licensee's parent or guardian, a licensed driver who is 25 years of age or older, or a licensed or certified driving instructor:

(A) Drive between the hours of 11 p.m. and 5 a.m.

(B) Transport passengers who are under 20 years of age.

(2) A licensee may drive between the hours of 11 p.m. and 5 a.m. or transport an immediate family member without being accompanied and supervised by a licensed driver who is the licensee's parent or guardian, a licensed driver who is 25 years of age or older, or a licensed or certified driving instructor, in the following circumstances:

(A) Medical necessity of the licensee when reasonable transportation facilities are inadequate and operation of a vehicle by a minor is necessary. The licensee shall keep in his or her possession a signed statement from a physician familiar with the condition, containing a diagnosis and probable date when sufficient recovery will have been made to terminate the necessity.

(B) Schooling or school-authorized activities of the licensee when reasonable transportation facilities are inadequate and operation of a vehicle by a minor is necessary. The licensee shall keep in his or her possession a signed statement from the school principal, dean, or school staff member designated by the principal or dean, containing a probable date that the schooling or school-authorized activity will have been completed.

(C) Employment necessity of the licensee when reasonable transportation facilities are inadequate and operation of a vehicle by a minor is necessary. The licensee shall keep in his or her possession a signed statement from the employer, verifying employment and containing a probable date that the employment will have been completed.

(D) Necessity of the licensee or the licensee's immediate family member when reasonable transportation facilities are inadequate and operation of a vehicle by a minor is necessary to transport the licensee or the licensee's immediate family member. The licensee shall keep in his or her possession a signed statement from a parent or legal guardian verifying the reason and containing a probable date that the necessity will have ceased.

(E) The licensee is an emancipated minor.

(c) A law enforcement officer shall not stop a vehicle for the sole purpose of determining whether the driver is in violation of the restrictions imposed under subdivision (b).

(d) A law enforcement officer shall not stop a vehicle for the sole purpose of determining whether a driver who is subject to the license restrictions in subdivision (b) is in violation of Article 2.5 (commencing with Section 118947) of Chapter 4 of Part 15 of Division 104 of the Health and Safety Code.

(e) (1) Upon a finding that any licensee has violated paragraph (1) of subdivision (b), the court shall impose one of the following:

(A) Not less than eight hours nor more than 16 hours of community service for a first offense and not less than 16 hours nor more than 24 hours of community service for a second or subsequent offense.

(B) A fine of not more than thirty-five dollars ($35) for a first offense and a fine of not more than fifty dollars ($50) for a second or subsequent offense.

(2) If the court orders community service, the court shall retain jurisdiction until the hours of community service have been completed.

(3) If the hours of community service have not been completed within 90 days, the court shall impose a fine of not more than thirty-five dollars ($35) for a first offense and not more than fifty dollars ($50) for a second or subsequent offense.

(f) A conviction of paragraph (1) of subdivision (b), when reported to the department, may not be disclosed as otherwise specified in Section 1808 or constitute a violation point count value pursuant to Section 12810.

(g) Any term of restriction or suspension of the driving privilege imposed on a person pursuant to this subdivision shall remain in effect until the end of the term even though the person becomes 18 years of age before the term ends.

(1) The driving privilege shall be suspended when the record of the person shows one or more notifications issued pursuant to Section 40509 or 40509.5. The suspension shall continue until any notification issued pursuant to Section 40509 or 40509.5 has been cleared.

(2) A 30-day restriction shall be imposed when a driver's record shows a violation point count of two or more points in 12 months, as determined in accordance with Section 12810. The restriction shall require the licensee to be accompanied by a licensed parent, spouse, guardian, or other licensed driver 25 years of age or older, except when operating a class M vehicle, or so licensed, with no passengers aboard.

(3) A six-month suspension of the driving privilege and a one-year term of probation shall be imposed whenever a licensee's record shows a violation point count of three or more points in 12 months, as

determined in accordance with Section 12810. The terms and conditions of probation shall include, but not be limited to, both of the following:

(A) The person shall violate no law which, if resulting in conviction, is reportable to the department under Section 1803.

(B) The person shall remain free from accident responsibility.

(h) Whenever action by the department under subdivision (g) arises as a result of a motor vehicle accident, the person may, in writing and within 10 days, demand a hearing to present evidence that he or she was not responsible for the accident upon which the action is based. Whenever action by the department is based upon a conviction reportable to the department under Section 1803, the person has no right to a hearing pursuant to Article 3 (commencing with Section 14100) of Chapter 3.

(i) The department shall require a person whose driving privilege is suspended or revoked pursuant to subdivision (g) to submit proof of financial responsibility as defined in Section 16430. The proof of financial responsibility shall be filed on or before the date of reinstatement following the suspension or revocation. The proof of financial responsibility shall be maintained with the department for three years following the date of reinstatement.

(j) (1) Notwithstanding any other provision of this code, the department may issue a distinctive driver's license, that displays a distinctive color or a distinctively colored stripe or other distinguishing characteristic, to persons at least 16 years of age and older but under 18 years of age, and to persons 18 years of age and older but under 21 years of age, so that the distinctive license feature is immediately recognizable. The features shall clearly differentiate between driver's licenses issued to persons at least 16 years of age or older but under 18 years of age and to persons 18 years of age or older but under 21 years of age.

(2) If changes in the format or appearance of driver's licenses are adopted pursuant to this subdivision, those changes may be implemented under any new contract for the production of driver's licenses entered into after the adoption of those changes.

(k) The department shall include, on the face of the provisional driver's license, the original issuance date of the provisional driver's license in addition to any other issuance date.

(*l*) This section shall be known and may be cited as the Brady-Jared Teen Driver Safety Act of 1997.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the

definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CHAPTER 426

An act to amend Sections 17021.7 and 17024.5 of, and to add Section 19136.13 to, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor October 10, 2007. Filed with Secretary of State October 10, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 17021.7 of the Revenue and Taxation Code is amended to read:

17021.7. (a) (1) For purposes of this part, the domestic partner of the taxpayer shall be treated as the spouse of the taxpayer for purposes of applying only Sections 105(b), 106(a), 162(*l*), 162(n), and 213(a) of the Internal Revenue Code and for purposes of determining whether an individual is the taxpayer's "dependent" or "member of their family" as these terms are used in those sections.

(2) This subdivision shall apply to each taxable year beginning on or after January 1, 2002.

(b) (1) Except as otherwise provided, the domestic partner or former domestic partner of a taxpayer shall be treated as the spouse or former spouse of that taxpayer for purposes of applying provisions of this part, Part 10.2 (commencing with Section 18401), Part 10.7 (commencing with Section 21001), and Part 11 (commencing with Section 23001), and for purposes of applying provisions of the Internal Revenue Code that are applicable for purposes of this part, Part 10.2, Part 10.7, or Part 11.

(2) A domestic partner shall not be treated as the spouse of a taxpayer as required by paragraph (1) in the following circumstances:

(A) Where the treatment would result in the classification of a business entity for purposes of this part, Part 10.2, or Part 11 that would be different than the classification of that business entity for federal income tax purposes.

(B) Where the treatment required by paragraph (1) would result in disqualification for federal income tax purposes of a plan that otherwise qualifies under Section 401(a) of the Internal Revenue Code.

(C) Where the treatment would result in a tax-favored account that would not be qualified as a tax-favored account for federal income tax purposes. For purposes of this subparagraph, "tax-favored account" means an individual account, plan, or arrangement that is exempt from income tax under Chapter 1 of the Internal Revenue Code, including an individual retirement account, as described in Section 408 of the Internal Revenue Code, an Archer MSA, as described in Section 220 of the Internal Revenue Code, a qualified tuition program, as described in Section 529 of the Internal Revenue Code, and a Coverdell education savings account, as described in Section 530 of the Internal Revenue Code.

(3) The amendments made by the act adding this subdivision shall be operative for each taxable year beginning on or after January 1, 2007.

(c) For purposes of this section, the term "domestic partner" means an individual partner in a domestic partner relationship within the meaning of Section 297 of the Family Code.

SEC. 2. Section 17024.5 of the Revenue and Taxation Code is amended to read:

17024.5. (a) (1) Unless otherwise specifically provided, the terms "Internal Revenue Code," "Internal Revenue Code of 1954," or "Internal Revenue Code of 1986," for purposes of this part, mean Title 26 of the United States Code, including all amendments thereto as enacted on the specified date for the applicable taxable year as follows:

Taxable Year	Specified Date of Internal Revenue Code Sections
(A) For taxable years beginning on or after January 1, 1983, and on or before December 31, 1983	January 15, 1983
(B) For taxable years beginning on or after January 1, 1984, and on or before December 31, 1984	January 1, 1984
(C) For taxable years beginning on or after January 1, 1985, and on or before December 31, 1985	January 1, 1985
(D) For taxable years beginning on or after January 1, 1986, and on or before December 31, 1986	January 1, 1986
(E) For taxable years beginning on or after January 1, 1987, and on or before December 31, 1988	January 1, 1987

(F) For taxable years beginning on or after January 1, 1989, and on or before December 31, 1989..... January 1, 1989
(G) For taxable years beginning on or after January 1, 1990, and on or before December 31, 1990..... January 1, 1990
(H) For taxable years beginning on or after January 1, 1991, and on or before December 31, 1991..... January 1, 1991
(I) For taxable years beginning on or after January 1, 1992, and on or before December 31, 1992..... January 1, 1992
(J) For taxable years beginning on or after January 1, 1993, and on or before December 31, 1996..... January 1, 1993
(K) For taxable years beginning on or after January 1, 1997, and on or before December 31, 1997..... January 1, 1997
(L) For taxable years beginning on or after January 1, 1998, and on or before December 31, 2001..... January 1, 1998
(M) For taxable years beginning on or after January 1, 2002, and on or before December 31, 2004..... January 1, 2001
(N) For taxable years beginning on or after January 1, 2005..... January 1, 2005

(2) (A) Unless otherwise specifically provided, for federal laws enacted on or after January 1, 1987, and on or before the specified date for the taxable year, uncodified provisions that relate to provisions of the Internal Revenue Code that are incorporated for purposes of this part shall be applicable to the same taxable years as the incorporated provisions.

(B) In the case where Section 901 of the Economic Growth and Tax Relief Act of 2001 (Public Law 107-16) applies to any provision of the Internal Revenue Code that is incorporated for purposes of this part, Section 901 of the Economic Growth and Tax Relief Act of 2001 shall apply for purposes of this part in the same manner and to the same taxable years as it applies for federal income tax purposes.

(3) Subtitle G (Tax Technical Corrections) and Part I of Subtitle H (Repeal of Expired or Obsolete Provisions) of the Revenue Reconciliation Act of 1990 (Public Law 101-508) modified numerous provisions of the Internal Revenue Code and provisions of prior federal acts, some of

which are incorporated by reference into this part. Unless otherwise provided, the provisions described in the preceding sentence, to the extent that they modify provisions that are incorporated into this part, are declaratory of existing law and shall be applied in the same manner and for the same periods as specified in the Revenue Reconciliation Act of 1990.

(b) Unless otherwise specifically provided, when applying any provision of the Internal Revenue Code for purposes of this part, a reference to any of the following is not applicable for purposes of this part:

(1) Except as provided in Chapter 4.5 (commencing with Section 23800) of Part 11 of Division 2, an electing small business corporation, as defined in Section 1361(b) of the Internal Revenue Code.

(2) Domestic international sales corporations (DISC), as defined in Section 992(a) of the Internal Revenue Code.

(3) A personal holding company, as defined in Section 542 of the Internal Revenue Code.

(4) A foreign personal holding company, as defined in Section 552 of the Internal Revenue Code.

(5) A foreign investment company, as defined in Section 1246(b) of the Internal Revenue Code.

(6) A foreign trust, as defined in Section 679 of the Internal Revenue Code.

(7) Foreign income taxes and foreign income tax credits.

(8) Section 911 of the Internal Revenue Code, relating to United States citizens living abroad.

(9) A foreign corporation, except that Section 367 of the Internal Revenue Code shall be applicable.

(10) Federal tax credits and carryovers of federal tax credits.

(11) Nonresident aliens.

(12) Deduction for personal exemptions, as provided in Section 151 of the Internal Revenue Code.

(13) The tax on generation-skipping transfers imposed by Section 2601 of the Internal Revenue Code.

(14) The tax, relating to estates, imposed by Section 2001 or 2101 of the Internal Revenue Code.

(c) (1) The provisions contained in Sections 41 to 44, inclusive, and Section 172 of the Tax Reform Act of 1984 (Public Law 98-369), relating to treatment of debt instruments, is not applicable for taxable years beginning before January 1, 1987.

(2) The provisions contained in Public Law 99-121, relating to the treatment of debt instruments, is not applicable for taxable years beginning before January 1, 1987.

(3) For each taxable year beginning on or after January 1, 1987, the provisions referred to by paragraphs (1) and (2) shall be applicable for purposes of this part in the same manner and with respect to the same obligations as the federal provisions, except as otherwise provided in this part.

(d) When applying the Internal Revenue Code for purposes of this part, regulations promulgated in final form or issued as temporary regulations by "the secretary" shall be applicable as regulations under this part to the extent that they do not conflict with this part or with regulations issued by the Franchise Tax Board.

(e) Whenever this part allows a taxpayer to make an election, the following rules shall apply:

(1) A proper election filed with the Internal Revenue Service in accordance with the Internal Revenue Code or regulations issued by "the secretary" shall be deemed to be a proper election for purposes of this part, unless otherwise provided in this part or in regulations issued by the Franchise Tax Board.

(2) A copy of that election shall be furnished to the Franchise Tax Board upon request.

(3) (A) Except as provided in subparagraph (B), in order to obtain treatment other than that elected for federal purposes, a separate election shall be filed at the time and in the manner required by the Franchise Tax Board.

(B) (i) If a taxpayer makes a proper election for federal income tax purposes prior to the time that taxpayer becomes subject to the tax imposed under this part or Part 11 (commencing with Section 23001), that taxpayer is deemed to have made the same election for purposes of the tax imposed by this part, Part 10.2 (commencing with Section 18401), and Part 11 (commencing with Section 23001), as applicable, and that taxpayer may not make a separate election for California tax purposes unless that separate election is expressly authorized by this part, Part 10.2 (commencing with Section 18401), or Part 11 (commencing with Section 23001), or by regulations issued by the Franchise Tax Board.

(ii) If a taxpayer has not made a proper election for federal income tax purposes prior to the time that taxpayer becomes subject to tax under this part or Part 11 (commencing with Section 23001), that taxpayer may not make a separate California election for purposes of this part, Part 10.2 (commencing with Section 18401), or Part 11 (commencing with Section 23001), unless that separate election is expressly authorized by this part, Part 10.2 (commencing with Section 18401), or Part 11 (commencing with Section 23001), or by regulations issued by the Franchise Tax Board.

(iii) This subparagraph applies only to the extent that the provisions of the Internal Revenue Code or the regulation issued by "the secretary" authorizing an election for federal income tax purposes apply for purposes of this part, Part 10.2 (commencing with Section 18401) or Part 11 (commencing with Section 23001).

(f) Whenever this part allows or requires a taxpayer to file an application or seek consent, the rules set forth in subdivision (e) shall be applicable with respect to that application or consent.

(g) When applying the Internal Revenue Code for purposes of determining the statute of limitations under this part, any reference to a period of three years shall be modified to read four years for purposes of this part.

(h) When applying, for purposes of this part, any section of the Internal Revenue Code or any applicable regulation thereunder, all of the following shall apply:

(1) References to "adjusted gross income" shall mean the amount computed in accordance with Section 17072, except as provided in paragraph (2).

(2) (A) Except as provided in subparagraph (B), references to "adjusted gross income" for purposes of computing limitations based upon adjusted gross income, shall mean the amount required to be shown as adjusted gross income on the federal tax return for the same taxable year.

(B) In the case of registered domestic partners and former registered domestic partners, adjusted gross income, for the purposes of computing limitations based upon adjusted gross income, shall mean the adjusted gross income on a federal tax return computed as if the registered domestic partner or former registered domestic partner was treated as a spouse or former spouse, respectively, for federal income tax purposes, and used the same filing status that was used on the state tax return for the same taxable year.

(3) Any reference to "subtitle" or "chapter" shall mean this part.

(4) The provisions of Section 7806 of the Internal Revenue Code, relating to construction of title, shall apply.

(5) Any provision of the Internal Revenue Code that becomes operative on or after the specified date for that taxable year shall become operative on the same date for purposes of this part.

(6) Any provision of the Internal Revenue Code that becomes inoperative on or after the specified date for that taxable year shall become inoperative on the same date for purposes of this part.

(7) Due account shall be made for differences in federal and state terminology, effective dates, substitution of "Franchise Tax Board" for "secretary" when appropriate, and other obvious differences.

(i) Any reference to a specific provision of the Internal Revenue Code shall include modifications of that provision, if any, in this part.

SEC. 2.5. Section 17024.5 of the Revenue and Taxation Code is amended to read:

17024.5. (a) (1) Unless otherwise specifically provided, the terms "Internal Revenue Code," "Internal Revenue Code of 1954," or "Internal Revenue Code of 1986," for purposes of this part, mean Title 26 of the United States Code, including all amendments thereto as enacted on the specified date for the applicable taxable year as follows:

Taxable Year	Specified Date of Internal Revenue Code Sections
(A) For taxable years beginning on or after January 1, 1983, and on or before December 31, 1983	January 15, 1983
(B) For taxable years beginning on or after January 1, 1984, and on or before December 31, 1984	January 1, 1984
(C) For taxable years beginning on or after January 1, 1985, and on or before December 31, 1985	January 1, 1985
(D) For taxable years beginning on or after January 1, 1986, and on or before December 31, 1986	January 1, 1986
(E) For taxable years beginning on or after January 1, 1987, and on or before December 31, 1988	January 1, 1987
(F) For taxable years beginning on or after January 1, 1989, and on or before December 31, 1989	January 1, 1989
(G) For taxable years beginning on or after January 1, 1990, and on or before December 31, 1990	January 1, 1990
(H) For taxable years beginning on or after January 1, 1991, and on or before December 31, 1991	January 1, 1991
(I) For taxable years beginning on or after January 1, 1992, and on or before December 31, 1992	January 1, 1992
(J) For taxable years beginning on or after January 1, 1993, and on or before December 31, 1996	January 1, 1993

(K) For taxable years beginning on or after January 1, 1997, and on or before December 31, 1997	January 1, 1997
(L) For taxable years beginning on or after January 1, 1998, and on or before December 31, 2001	January 1, 1998
(M) For taxable years beginning on or after January 1, 2002, and on or before December 31, 2004	January 1, 2001
(N) For taxable years beginning on or after January 1, 2005, and on or before December 31, 2006	January 1, 2005
(O) For taxable years beginning on or after January 1, 2007	January 1, 2007

(2) (A) Unless otherwise specifically provided, for federal laws enacted on or after January 1, 1987, and on or before the specified date for the taxable year, uncodified provisions that relate to provisions of the Internal Revenue Code that are incorporated for purposes of this part shall be applicable to the same taxable years as the incorporated provisions.

(B) In the case where Section 901 of the Economic Growth and Tax Relief Act of 2001 (Public Law 107-16) applies to any provision of the Internal Revenue Code that is incorporated for purposes of this part, Section 901 of the Economic Growth and Tax Relief Act of 2001 shall apply for purposes of this part in the same manner and to the same taxable years as it applies for federal income tax purposes.

(3) Subtitle G (Tax Technical Corrections) and Part I of Subtitle H (Repeal of Expired or Obsolete Provisions) of the Revenue Reconciliation Act of 1990 (Public Law 101-508) modified numerous provisions of the Internal Revenue Code and provisions of prior federal acts, some of which are incorporated by reference into this part. Unless otherwise provided, the provisions described in the preceding sentence, to the extent that they modify provisions that are incorporated into this part, are declaratory of existing law and shall be applied in the same manner and for the same periods as specified in the Revenue Reconciliation Act of 1990.

(b) Unless otherwise specifically provided, when applying any provision of the Internal Revenue Code for purposes of this part, a reference to any of the following is not applicable for purposes of this part:

(1) Except as provided in Chapter 4.5 (commencing with Section 23800) of Part 11 of Division 2, an electing small business corporation, as defined in Section 1361(b) of the Internal Revenue Code.

(2) Domestic international sales corporations (DISC), as defined in Section 992(a) of the Internal Revenue Code.

(3) A personal holding company, as defined in Section 542 of the Internal Revenue Code.

(4) A foreign personal holding company, as defined in Section 552 of the Internal Revenue Code.

(5) A foreign investment company, as defined in Section 1246(b) of the Internal Revenue Code.

(6) A foreign trust, as defined in Section 679 of the Internal Revenue Code.

(7) Foreign income taxes and foreign income tax credits.

(8) Section 911 of the Internal Revenue Code, relating to United States citizens living abroad.

(9) A foreign corporation, except that Section 367 of the Internal Revenue Code shall be applicable.

(10) Federal tax credits and carryovers of federal tax credits.

(11) Nonresident aliens.

(12) Deduction for personal exemptions, as provided in Section 151 of the Internal Revenue Code.

(13) The tax on generation-skipping transfers imposed by Section 2601 of the Internal Revenue Code.

(14) The tax, relating to estates, imposed by Section 2001 or 2101 of the Internal Revenue Code.

(c) (1) The provisions contained in Sections 41 to 44, inclusive, and Section 172 of the Tax Reform Act of 1984 (Public Law 98-369), relating to treatment of debt instruments, is not applicable for taxable years beginning before January 1, 1987.

(2) The provisions contained in Public Law 99-121, relating to the treatment of debt instruments, is not applicable for taxable years beginning before January 1, 1987.

(3) For each taxable year beginning on or after January 1, 1987, the provisions referred to by paragraphs (1) and (2) shall be applicable for purposes of this part in the same manner and with respect to the same obligations as the federal provisions, except as otherwise provided in this part.

(d) When applying the Internal Revenue Code for purposes of this part, regulations promulgated in final form or issued as temporary regulations by "the secretary" shall be applicable as regulations under this part to the extent that they do not conflict with this part or with regulations issued by the Franchise Tax Board.

(e) Whenever this part allows a taxpayer to make an election, the following rules shall apply:

(1) A proper election filed with the Internal Revenue Service in accordance with the Internal Revenue Code or regulations issued by "the secretary" shall be deemed to be a proper election for purposes of this part, unless otherwise provided in this part or in regulations issued by the Franchise Tax Board.

(2) A copy of that election shall be furnished to the Franchise Tax Board upon request.

(3) (A) Except as provided in subparagraph (B), in order to obtain treatment other than that elected for federal purposes, a separate election shall be filed at the time and in the manner required by the Franchise Tax Board.

(B) (i) If a taxpayer makes a proper election for federal income tax purposes prior to the time that taxpayer becomes subject to the tax imposed under this part or Part 11 (commencing with Section 23001), that taxpayer is deemed to have made the same election for purposes of the tax imposed by this part, Part 10.2 (commencing with Section 18401), and Part 11 (commencing with Section 23001), as applicable, and that taxpayer may not make a separate election for California tax purposes unless that separate election is expressly authorized by this part, Part 10.2 (commencing with Section 18401), or Part 11 (commencing with Section 23001), or by regulations issued by the Franchise Tax Board.

(ii) If a taxpayer has not made a proper election for federal income tax purposes prior to the time that taxpayer becomes subject to tax under this part or Part 11 (commencing with Section 23001), that taxpayer may not make a separate California election for purposes of this part, Part 10.2 (commencing with Section 18401), or Part 11 (commencing with Section 23001), unless that separate election is expressly authorized by this part, Part 10.2 (commencing with Section 18401), or Part 11 (commencing with Section 23001), or by regulations issued by the Franchise Tax Board.

(iii) This subparagraph applies only to the extent that the provisions of the Internal Revenue Code or the regulation issued by "the secretary" authorizing an election for federal income tax purposes apply for purposes of this part, Part 10.2 (commencing with Section 18401) or Part 11 (commencing with Section 23001).

(f) Whenever this part allows or requires a taxpayer to file an application or seek consent, the rules set forth in subdivision (e) shall be applicable with respect to that application or consent.

(g) When applying the Internal Revenue Code for purposes of determining the statute of limitations under this part, any reference to a

period of three years shall be modified to read four years for purposes of this part.

(h) When applying, for purposes of this part, any section of the Internal Revenue Code or any applicable regulation thereunder, all of the following shall apply:

(1) References to "adjusted gross income" shall mean the amount computed in accordance with Section 17072, except as provided in paragraph (2).

(2) (A) Except as provided in subparagraph (B), references to "adjusted gross income" for purposes of computing limitations based upon adjusted gross income, shall mean the amount required to be shown as adjusted gross income on the federal tax return for the same taxable year.

(B) In the case of registered domestic partners and former registered domestic partners, adjusted gross income, for the purposes of computing limitations based upon adjusted gross income, shall mean the adjusted gross income on a federal tax return computed as if the registered domestic partner or former registered domestic partner was treated as a spouse or former spouse, respectively, for federal income tax purposes, and used the same filing status that was used on the state tax return for the same taxable year.

(3) Any reference to "subtitle" or "chapter" shall mean this part.

(4) The provisions of Section 7806 of the Internal Revenue Code, relating to construction of title, shall apply.

(5) Any provision of the Internal Revenue Code that becomes operative on or after the specified date for that taxable year shall become operative on the same date for purposes of this part.

(6) Any provision of the Internal Revenue Code that becomes inoperative on or after the specified date for that taxable year shall become inoperative on the same date for purposes of this part.

(7) Due account shall be made for differences in federal and state terminology, effective dates, substitution of "Franchise Tax Board" for "secretary" when appropriate, and other obvious differences.

(8) Except as otherwise provided, any reference to Section 501 of the Internal Revenue Code shall be interpreted to also refer to Section 23701.

(i) Any reference to a specific provision of the Internal Revenue Code shall include modifications of that provision, if any, in this part.

SEC. 3. Section 19136.13 is added to the Revenue and Taxation Code, to read:

19136.13. No addition to tax shall be made pursuant to Section 19136 for any period before the date prescribed under Section 18566 for the filing of the return for the 2007 taxable year, with respect to any underpayment of an installment for the 2007 taxable year, to the extent

that the underpayment was created or increased by any provision of the act adding this section or Chapter 802 of the Statutes of 2006.

SEC. 4. Section 2.5 of this bill incorporates amendments to Section 17024.5 of the Revenue and Taxation Code proposed by both this bill and AB 1561. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2008, (2) each bill amends Section 17024.5 of the Revenue and Taxation Code, and (3) this bill is enacted after AB 1561, in which case Section 2 of this bill shall not become operative.

SEC. 5. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

CHAPTER 427

An act to amend Sections 1601 and 10765 of the Public Contract Code, relating to public contracts.

[Approved by Governor October 10, 2007. Filed with Secretary of State October 10, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 1601 of the Public Contract Code is amended to read:

1601. (a) Any public entity may adopt methods and procedures to do any of the following:

(1) Receive bids on public works or other contracts over the Internet, but only if no bid can be opened before the bid deadline and all bids can be verified as authentic.

(2) Receive supporting materials submitted pursuant to a public works contract over the Internet. For purposes of this section, "supporting materials" includes, but is not limited to, payment requests, shop drawings, schedules, notices of claims, and certified payrolls.

(b) If a public entity allows or requires bids or supporting materials to be submitted over the Internet pursuant to this section, the public entity shall provide an electronic receipt to the contractor showing the date and time the submission was received. The public entity shall provide the electronic receipt to the contractor either by immediate transmission to the contractor or by providing the contractor access to an electronic file online that contains this information and that can be viewed and printed by the contractor.

SEC. 2. Section 10765 of the Public Contract Code is amended to read:

10765. (a) All bids shall be presented under sealed cover and accompanied by one of the following forms of bidder's security: cash, a cashier's check, certified check, or a bidder's bond executed by an admitted surety insurer, made payable to the trustees. The security shall be in an amount equal to at least 10 percent of the amount bid. A bid shall not be considered unless one of the forms of bidder's security is enclosed with it.

(b) A bid described in subdivision (a) may be submitted electronically in accordance with Section 1601, but only if the bidder submits the bidder's security required by subdivision (a) within 24 hours after the opening of bids.

CHAPTER 428

An act to amend Section 56668 of the Government Code, relating to local government.

[Approved by Governor October 10, 2007. Filed with Secretary of State October 10, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 56668 of the Government Code is amended to read:

56668. Factors to be considered in the review of a proposal shall include, but not be limited to, all of the following:

(a) Population and population density; land area and land use; per capita assessed valuation; topography, natural boundaries, and drainage basins; proximity to other populated areas; the likelihood of significant growth in the area, and in adjacent incorporated and unincorporated areas, during the next 10 years.

(b) The need for organized community services; the present cost and adequacy of governmental services and controls in the area; probable future needs for those services and controls; probable effect of the proposed incorporation, formation, annexation, or exclusion and of alternative courses of action on the cost and adequacy of services and controls in the area and adjacent areas.

"Services," as used in this subdivision, refers to governmental services whether or not the services are services which would be provided by

local agencies subject to this division, and includes the public facilities necessary to provide those services.

(c) The effect of the proposed action and of alternative actions, on adjacent areas, on mutual social and economic interests, and on the local governmental structure of the county.

(d) The conformity of both the proposal and its anticipated effects with both the adopted commission policies on providing planned, orderly, efficient patterns of urban development, and the policies and priorities set forth in Section 56377.

(e) The effect of the proposal on maintaining the physical and economic integrity of agricultural lands, as defined by Section 56016.

(f) The definiteness and certainty of the boundaries of the territory, the nonconformance of proposed boundaries with lines of assessment or ownership, the creation of islands or corridors of unincorporated territory, and other similar matters affecting the proposed boundaries.

(g) Consistency with city or county general and specific plans.

(h) The sphere of influence of any local agency which may be applicable to the proposal being reviewed.

(i) The comments of any affected local agency or other public agency.

(j) The ability of the newly formed or receiving entity to provide the services which are the subject of the application to the area, including the sufficiency of revenues for those services following the proposed boundary change.

(k) Timely availability of water supplies adequate for projected needs as specified in Section 65352.5.

(*l*) The extent to which the proposal will affect a city or cities and the county in achieving their respective fair shares of the regional housing needs as determined by the appropriate council of governments consistent with Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7.

(m) Any information or comments from the landowner or owners, voters, or residents of the affected territory.

(n) Any information relating to existing land use designations.

(o) The extent to which the proposal will promote environmental justice. As used in this subdivision, "environmental justice" means the fair treatment of people of all races, cultures, and incomes with respect to the location of public facilities and the provision of public services.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated

by this act, within the meaning of Section 17556 of the Government Code.

CHAPTER 429

An act to amend Sections 129787 and 129895 of the Health and Safety Code, relating to seismic safety.

[Approved by Governor October 10, 2007. Filed with Secretary of State October 10, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 129787 of the Health and Safety Code is amended to read:

129787. (a) The payment of the filing fee described in Section 129785 may be postponed by the office if all of the following conditions are met:

(1) The proposed construction or alteration has been proposed as a result of any event that has been declared to be a disaster by the Governor.

(2) The office determines that the applicant cannot presently afford to pay the filing fee.

(3) The applicant has applied for federal disaster relief from the Federal Emergency Management Agency (FEMA) with respect to the disaster described in paragraph (1).

(4) The applicant is expected to receive disaster assistance within one year from the date of the application.

(b) If the office does not receive full payment of any fee for which payment has been postponed pursuant to subdivision (a) within one year from the date of plan approval, the statewide office may request an offset from the Controller for the unpaid amount against any amount owed by the state to the applicant, and may request additional offsets against amounts owed by the state to the applicant until the fee is paid in full. This subdivision shall not be construed to establish an offset as described in the preceding sentence as the exclusive remedy for the collection of any unpaid fee amount as described in that same sentence.

SEC. 2. Section 129895 of the Health and Safety Code is amended to read:

129895. (a) The office shall adopt by regulations seismic safety standards for hospital equipment anchorages, as defined by the office, to include, but not be limited to, architectural, mechanical, and electrical

components, supports, and attachments. Those regulations shall include criteria for the testing of equipment anchorages.

(b) Any fixed hospital equipment anchorages purchased or acquired on or after either the effective date of the regulations adopted pursuant to subdivision (a) shall not be used or installed in any hospital building unless the equipment anchorages are approved by the office.

(c) Manufacturers, designers, or suppliers of equipment anchorages may submit data sufficient for the office to evaluate equipment anchorages' seismic safety prior to the selection of equipment anchorages for any specific hospital building.

(d) The office may charge a fee based on the actual costs incurred by it for data review, approvals, and field inspections pursuant to this section.

CHAPTER 430

An act to amend Sections 100250 and 100251 of the Public Utilities Code, and to add Section 7262.3 to the Revenue and Taxation Code, relating to taxation.

[Approved by Governor October 10, 2007. Filed with Secretary of State October 10, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 100250 of the Public Utilities Code is amended to read:

100250. A retail transactions and use tax ordinance may be adopted by the board in accordance with the provisions of Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code, provided that two-thirds of the electors voting on the measure vote to authorize its enactment at a special election called for that purpose by the board.

SEC. 2. Section 100251 of the Public Utilities Code is amended to read:

100251. Any transactions and use tax ordinance adopted shall be operative in accordance with Section 7265 of the Revenue and Taxation Code.

SEC. 3. Section 7262.3 is added to the Revenue and Taxation Code, to read:

7262.3. Notwithstanding any other provision of law, the Santa Clara Valley Transportation Authority may adopt an ordinance imposing a transactions and use tax at a rate of 0.125 percent, provided that all other

provisions of this part and Article 9 (commencing with Section 100250) of Chapter 5 of Part 12 of the Public Utilities Code are complied with by the Santa Clara Valley Transportation Authority.

SEC. 4. The Legislature finds and declares that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique fiscal pressures experienced by the Santa Clara Valley Transportation Authority in providing essential public transit services.

CHAPTER 431

An act to amend Sections 923.5 and 11558 of the Insurance Code, and to add Section 77.7 to the Labor Code, relating to insurance.

[Approved by Governor October 10, 2007. Filed with Secretary of State October 10, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 923.5 of the Insurance Code is amended to read:

923.5. Each insurer transacting business in this state shall at all times maintain reserves in an amount estimated in the aggregate to provide for the payment of all losses and claims for which the insurer may be liable, and to provide for the expense of adjustment or settlement of losses and claims.

The reserves shall be computed in accordance with regulations made from time to time by the commissioner. The promulgation of the regulations by the commissioner, or any changes thereto or amendments thereof, shall be in accordance with the procedure provided in Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The commissioner shall make the regulations upon reasonable consideration of the ascertained experience and the character of such kinds of business for the purpose of adequately protecting the insured and securing the solvency of the insurer.

With respect to liability and common carrier liability, the regulations shall be consistent with Section 11558.

The commissioner may prescribe the manner and form of reporting pertinent information concerning the reserves provided for in this section.

This section shall not apply to life insurance, title insurance, disability insurance, mortgage insurance, or mortgage guaranty insurance.

SEC. 2. Section 11558 of the Insurance Code is amended to read:

11558. The minimum reserve requirements prescribed by the commissioner in regulations promulgated pursuant to Section 923.5 for outstanding losses and loss expenses for each of the most recent three years for coverages included in the lines of business described in the annual statement as liability other than automobile bodily injury, and for automobile liability bodily injury, shall be not less than 60 percent of earned premiums during each year less the amount already paid for losses and expenses incidental thereto incurred during each such year.

The commissioner may prescribe the manner and form of reporting pertinent information concerning the reserves provided for in this section.

SEC. 3. Section 77.7 is added to the Labor Code, to read:

77.7. (a) A study shall be undertaken to examine the causes of the number of insolvencies among workers' compensation insurers within the past 10 years. The study shall be conducted by an independent research organization under the direction of the commission. Not later than July 1, 2009, the commission and the department shall publish the report of the study on it's Internet Web site and shall inform the Legislature and the Governor of the availability of the report.

(b) The study shall include an analysis of the following: the access to capital for workers' compensation insurance from all sources between 1993 and 2003; the availability, source, and risk assumed of reinsurers during this period; the use of deductible policies and their effect on solvency regulation; market activities by insurers and producers that affected market concentration; activities, including financial oversight of insurers, by insurance regulators and the National Association of Insurance Commissioners during this period; the quality of data reporting to the commissioner's designated statistical agent and the accuracy of recommendations provided by the commissioner's designated statistical agent during this period of time; and underwriting, claims adjusting, and reserving practices of insolvent insurers. The study shall also include a survey of reports of other state agencies analyzing the insurance market response to rising system costs within the applicable time period.

(c) Data reasonably required for the study shall be made available by the California Insurance Guarantee Association, Workers' Compensation Insurance Rating Bureau, third-party administrators for the insolvent insurers, whether prior to or after the insolvency, the State Compensation Insurance Fund, and the Department of Insurance. The commission shall also include a survey of reports by the commission and other state agencies analyzing the insurance market response to rising system costs within the applicable period of time.

(d) The cost of the study is not to exceed one million dollars ($1,000,000). Confidential information identifiable to any natural person

or insurance company held by any agency or organization or association or other person or entity shall be released to researchers upon satisfactory agreement to maintain confidentiality. Information or material that is not subject to subpoena from the agency or organization or association or other person or entity shall not be subject to subpoena from the commission or the contracted research organization.

(e) The costs of the study shall be borne one-half by the commission from funds derived from the Workers' Compensation Administration Revolving Fund and one-half by insurers from assessments allocated to each insurer based on the insurer's proportionate share of the market as shown by the Market Share Report for Calendar Year 2006 published by the Department of Insurance.

(f) In order to protect individual company trade secrets, this study shall not lead to the disclosure of, either directly or indirectly, the business practices of any company that provides data pursuant to this section. This prohibition shall not apply to insurance companies that have been ordered by a court of competent jurisdiction to be placed in liquidation under the supervision of a liquidator or other authority.

CHAPTER 432

An act to amend Sections 1726, 1726.4, and 1727 of the Fish and Game Code, relating to fisheries.

[Approved by Governor October 10, 2007. Filed with Secretary of State October 10, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 1726 of the Fish and Game Code is amended to read:

1726. The Legislature hereby finds and declares that it is the policy of the state to do all of the following:

(a) Establish and maintain wild trout stocks in suitable waters of the state that are readily accessible to the general public as well as in those waters in remote areas.

(b) Establish angling regulations designed to maintain the wild trout fishery in those waters by natural reproduction.

(c) Discourage artificial planting of hatchery-raised hybrid and nonnative fish species in wild trout waters or in other areas that would adversely affect native aquatic species.

SEC. 2. Section 1726.4 of the Fish and Game Code is amended to read:

1726.4. (a) It is the intent of the Legislature that the department, in administering its existing wild trout program, shall conduct a biological and physical inventory of all California trout streams and lakes to determine the most suitable angling regulations for each stream or lake. The department shall determine for each stream or lake whether it should be managed as a wild trout fishery, or whether its management should involve the planting of native trout species to supplement wild trout populations. In making that inventory, the department shall give priority to those streams and lakes where public use is heaviest, which have the highest biological potential for producing sizeable wild trout, which are inhabited by rare species, or where the quality of the fishery is threatened or endangered. Biological and physical inventories prepared for each stream, stream system, or lake shall include an assessment of the resource status, threats to the continued well-being of the fishery resource, the potential for fishery resource development, and recommendations, including necessary changes in the allowed take of trout, for the development of each stream or lake to its full capacity as a fishery.

(b) This section does not provide any public entity or private party with any new or additional authority to affect the management of, or access to, any private land without the written consent of the owner. Privately owned lakes and ponds not open to the use of the general public shall be subject to the provisions of this section only with the written consent of the owner. This chapter shall not be construed as authorizing or requiring special treatment of adjacent land areas or requiring land use restrictions. It is the intent of the Legislature that this chapter should not diminish the existing authority of the department, nor should it interfere with the department's existing fisheries management planning process.

SEC. 3. Section 1727 of the Fish and Game Code is amended to read:

1727. (a) In order to provide for a diversity of available angling experiences throughout the state, it is the intent of the Legislature that the commission maintain the existing wild trout program, and as part of the program, develop additional wild trout waters in the more than 20,000 miles of trout streams and approximately 5,000 lakes containing trout in California.

(b) The department shall prepare a list of no less than 25 miles of stream or stream segments and at least one lake that it deems suitable for designation as wild trout waters. The department shall submit this list to the commission for its consideration at the regular October commission meeting.

(c) The commission may remove any stream or lake that it has designated as a wild trout fishery from the program at any time. If any of those waters are removed from the program, an equivalent amount of stream mileage or an equivalent size lake shall be added to the wild trout program.

(d) The commission shall in January of each year submit a report to the Legislature regarding progress in implementing this chapter. In that report, the commission shall state its reasons why any stream or lake listed by the department as suitable for consideration as a wild trout water was or was not included in the program. The commission shall also state its reasons for removing and replacing any waters within the program.

(e) The department shall prepare and complete management plans for all wild trout waters not more than three years following their initial designation by the commission, and to update the management plan every five years following completion of the initial management plan.

CHAPTER 433

An act to add Sections 1625.3, 1625.4, and 1625.5 to the Business and Professions Code, and to amend Section 13407 of the Corporations Code, relating to dentistry.

[Approved by Governor October 10, 2007. Filed with Secretary of State October 10, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 1625.3 is added to the Business and Professions Code, to read:

1625.3. (a) Notwithstanding any other provision of law, upon the incapacity or death of a dentist, if the requirements of Section 1625.4 are met, any of the following persons may employ licensees and dental assistants and charge for the professional services they render for a period not to exceed 12 months from the date of the dentist's death or incapacity without being deemed to be practicing dentistry within the meaning of Section 1625:

(1) The legal guardian, conservator, or authorized representative of an incapacitated dentist.

(2) The executor or administrator of the estate of a dentist who is deceased.

(3) The named trustee or successor trustee of a trust or subtrust that owns assets consisting only of the incapacitated or deceased dentist's dental practice and that was established solely for the purpose of disposition of the dental practice upon the dentist's incapacity or death.

(b) The persons described in subdivision (a) shall not interfere with, control, or otherwise direct the professional judgment of a licensee or dental assistant acting within his or her scope of practice as defined in this chapter.

SEC. 2. Section 1625.4 is added to the Business and Professions Code, to read:

1625.4. (a) Where the dental practice of an incapacitated or deceased dentist is a sole proprietorship or where an incapacitated or deceased dentist is the sole shareholder of a professional dental corporation, a person identified in subdivision (a) of Section 1625.3 may enter into a contract with one or more dentists licensed in the state to continue the operations of the incapacitated or deceased dentist's dental practice for a period of no more than 12 months from the date of death or incapacity, or until the practice is sold or otherwise disposed of, whichever occurs first, if all of the following conditions are met:

(1) The person identified in subdivision (a) of Section 1625.3 delivers to the board a notification of death or incapacity that includes all of the following information:

(A) The name and license number of the deceased or incapacitated dentist.

(B) The name and address of the dental practice.

(C) If the dentist is deceased, the name, address, and tax identification number of the estate or trust.

(D) The name and license number of each dentist who will operate the dental practice.

(E) A statement that the information provided is true and correct, and that the person identified in subdivision (a) of Section 1625.3 understands that any interference by the person or by his or her assignee with the contracting dentist's or dentists' practice of dentistry or professional judgment is grounds for immediate termination of the operations of the dental practice without a hearing. The statement shall also provide that if the person required to make this notification willfully states as true any material fact that he or she knows to be false, he or she shall be subject to a civil penalty of up to ten thousand dollars ($10,000) in an action brought by any public prosecutor. A civil penalty imposed under this subparagraph shall be enforced as a civil judgment.

(2) The dentist or dentists who will operate the practice shall be licensed by the board and that license shall be current, valid, and shall not be suspended, restricted, or otherwise the subject of discipline.

(3) Within 30 days after the death or incapacity of a dentist, the person identified in subdivision (a) of Section 1625.3 or the contracting dentist or dentists shall send notification of the death or incapacity by mail to the last known address of each current patient of record with an explanation of how copies of the patient's records may be obtained. This notice may also contain any other relevant information concerning the continuation of the dental practice. The failure to comply with the notification requirement within the 30-day period shall be grounds for terminating the operation of the dental practice under subdivision (b). The contracting dentist or dentists shall obtain a form signed by the patient, or the patient's guardian or legal representative, that releases the patient's confidential dental records to the contracting dentist or dentists prior to use of those records.

(b) The board may order the termination of the operations of a dental practice operating pursuant to this section if the board determines that the practice is operating in violation of this section. The board shall provide written notification at the address provided pursuant to subparagraph (B) of paragraph (1) of subdivision (a). If the board does not receive a written appeal of the determination that the practice is operating in violation of this section within 10 days of receipt of the notice, the determination to terminate the operations of the dental practice shall take effect immediately. If an appeal is received in a timely matter by the board, the executive officer of the board, or his or her designee, shall conduct an informal hearing. The decision of the executive officer or his or her designee shall be mailed to the practice no later than 10 days after the informal hearing, is the final decision in the manner and is not subject to appeal under the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code).

(c) Notwithstanding subdivision (b), if the board finds evidence that the person identified in subdivision (a) of Section 1625.3, or his or her assignee, has interfered with the practice or professional judgment of the contracting dentist or dentists or otherwise finds evidence that a violation of this section constitutes an immediate threat to the public health, safety, or welfare, the board may immediately order the termination of the operations of the dental practice without an informal hearing.

(d) A notice of an order of immediate termination of the dental practice without an informal hearing, as referenced in subdivision (b), shall be served by certified mail on the person identified in subdivision (a) of Section 1625.3 at the address provided pursuant to subparagraph (B) or (C) of paragraph (1) of subdivision (a), as appropriate, and on the contracting dentist or dentists at the address of the dental practice

provided pursuant to subparagraph (B) of paragraph (1) of subdivision (a).

(e) A person receiving notice of an order of immediate termination pursuant to subdivision (d) may petition the board within 30 days of the date of service of the notice for an informal hearing before the executive officer or his or her designee, which shall take place within 30 days of the filing of the petition.

(f) A notice of the decision of the executive officer or his or her designee following an informal hearing held pursuant to subdivision (b) shall be served by certified mail on the person identified in subdivision (a) of Section 1625.3 at the address provided pursuant to subparagraph (B) or (C) of paragraph (1) of subdivision (a), as appropriate, and on the contracting dentist or dentists at the address of the dental practice provided pursuant to subparagraph (B) of paragraph (1) of subdivision (a).

(g) The board may require the submission to the board of any additional information necessary for the administration of this section.

SEC. 3. Section 1625.5 is added to the Business and Professions Code, to read:

1625.5. The following written notification shall be included with, or as part of, all application forms required for a license to practice dentistry pursuant to this article and for renewal of that license pursuant to Article 6 (commencing with Section 1715):

"Effective January 1, 2008, certain nondentists may, upon your death or incapacity, contract with another licensed dentist or dentists to continue your dental practice for a period not exceeding 12 months if certain conditions are met. Sections 1625.3 and 1625.4 of the Business and Professions Code permit the legal guardian or conservator or authorized representative of an incapacitated dentist, the executor or administrator of the estate of a deceased dentist, or the named trustee or successor trustee of a trust or subtrust who meets certain requirements, to contract with a licensed dentist or dentists to continue the incapacitated or deceased dentist's dental practice for a period not to exceed 12 months from the date of death or incapacity if the practice meets specified criteria and if certain other conditions are met, including providing a specific notification to the Dental Board of California. You and your estate planner should become familiar with these requirements and the notification process. Please contact the Dental Board of California for additional information."

SEC. 4. Section 13407 of the Corporations Code is amended to read:

13407. Shares in a professional corporation or a foreign professional corporation qualified to render professional services in this state may be

transferred only to a licensed person, to a shareholder of the same corporation, to a person licensed to practice the same profession in the jurisdiction or jurisdictions in which the person practices, or to a professional corporation, and any transfer in violation of this restriction shall be void, except as provided herein.

A professional corporation may purchase its own shares without regard to any restrictions provided by law upon the repurchase of shares, if at least one share remains issued and outstanding.

If a professional corporation or a foreign professional corporation qualified to render professional services in this state shall fail to acquire all of the shares of a shareholder who is disqualified from rendering professional services in this state or of a deceased shareholder who was, on his or her date of death, licensed to render professional services in this state, or if such a disqualified shareholder or the representative of such a deceased shareholder shall fail to transfer said shares to the corporation, to another shareholder of the corporation, to a person licensed to practice the same profession in the jurisdiction or jurisdictions in which the person practices, or to a licensed person, within 90 days following the date of disqualification, or within six months following the date of death of the shareholder, as the case may be, then the certificate of registration of the corporation may be suspended or revoked by the governmental agency regulating the profession in which the corporation is engaged. In the event of such a suspension or revocation, the corporation shall cease to render professional services in this state.

Notwithstanding any provision in this part, upon the death or incapacity of a dentist, any individual named in subdivision (a) of Section 1625.3 of the Business and Professions Code may employ licensed dentists and dental assistants and charge for their professional services for a period not to exceed 12 months from the date of death or incapacity of the dentist. The employment of licensed dentists and dental assistants shall not be deemed the practice of dentistry within the meaning of Section 1625 of the Business and Professions Code, provided that all of the requirements of Section 1625.4 of the Business and Professions Code are met. If an individual listed in Section 1625.3 of the Business and Professions Code is employing licensed persons and dental assistants, then the shares of a deceased or incapacitated dentist shall be transferred as provided in this section no later than 12 months from the date of death or incapacity of the dentist.

CHAPTER 434

An act relating to water.

[Approved by Governor October 10, 2007. Filed with
Secretary of State October 10, 2007.]

The people of the State of California do enact as follows:

SECTION 1. This act shall be known and may be cited as the Shasta-Tehama County Watermaster District Act. It is intended to supplement the Water Code and reads as follows:

SHASTA-TEHAMA COUNTY WATERMASTER DISTRICT ACT

Article 1. Creation

101. This act shall be known and may be cited as the Shasta-Tehama County Watermaster District Act.

102. (a) A watermaster district is hereby created in Shasta County and parts of Tehama County to be known as the Shasta-Tehama County Watermaster District.

(b) The district shall be governed by a board of directors as specified in Section 401, shall have boundaries as prescribed in Section 201, and shall exercise the powers granted by this act for purposes of acting as watermaster over those decreed water rights whose places of use are within the territory of the district and for which the court has appointed the district as the watermaster, together with other powers and duties that are reasonably implied and necessary and proper to carry out the purposes of the district, including, but not limited to, any power authorized by the court which appoints the district as watermaster.

(c) The Legislature hereby finds and declares that the cost effective and responsible enforcement of existing decreed water rights within the district is in the public interest, and that the creation of a watermaster district that can serve in that capacity after proper appointment by the court is for the common benefit of the holders of those decreed water rights within the district and for the protection of agricultural and economic productivity.

Article 2. Boundaries

201. The exterior boundaries of the district shall be the exterior boundaries of the County of Shasta and those portions of the following territories lying within Tehama County: Township 30 North, Range 1 East, Sections 21, 22, 23, 24, 25, 26, 27, 28, 33, 34, 35, and 36; Township 30 North, Range 2 East, Sections 19, 20, 21, 23, 24, 25, 26, 27, 28, 29,

30, 31, 32, 33, 34, and 35; and Township 30 North, Range 3 East, Sections 19 and 30.

202. The district is divided into the following service areas:

(a) Burney Creek Service Area, consisting of the territory within the County of Shasta that is covered by the judgment and decree, dated January 30, 1926, entered in Black v. Grinnell, et al. (Super. Ct. Shasta County, 1926, No. 5111).

(b) Hat Creek Service Area, consisting of the territory within the County of Shasta that is covered by the judgment and decree, dated May 14, 1924, entered in Doyel, et al. v. Massie, et al. (Super. Ct. Shasta County, 1924, No. 5724) and the judgment and decree, dated, May 7, 1935, entered in Doyel, et al. v. Wilcox, et al. (Super. Ct. Shasta County, 1935, No. 7858).

(c) North Fork Cottonwood Creek Service Area, consisting of the territory within the County of Shasta that is covered by the decree, dated June 9, 1920, entered in Bee Creek Ditch & Water Company v. Happy Valley Land & Water Co., et al. (Super. Ct. Shasta County, 1920, No. 5479).

(d) North Cow Creek Service Area, consisting of the territory within the County of Shasta that is covered by the judgment and decree, dated April 29, 1932, entered in Lemm, et al. v. Rutherford, et al. (Super. Ct. Shasta County, 1932, No. 5804), the judgment and decree, dated July 22, 1932, entered in Colby, et al. v. Strayer, et al. (Super. Ct. Shasta County, 1932, No. 5701), and the judgment and decree, dated October 4, 1937, entered in Millville Ditch Co. v. Hufford, et al. (Super. Ct. Shasta County, 1937, No. 6904).

(e) Digger Creek Service Area, consisting of the territory within the County of Shasta and the County of Tehama that is covered by the decree, dated August 12, 1899, entered in Cransberry, et al. v. Edwards, et al. (Super. Ct. Tehama County, 1899, No. 2213), the judgment, dated June 9, 1913, entered in Wells, et al. v. Pritchard, et al. (Super. Ct. Tehama County, 1913, No. 3214), the judgment, dated October 16, 1917, entered in Harrison, et al. v. Kaler, et al. (Super. Ct. Tehama County, 1917, No. 3327), and the judgment, dated February 24, 1927, entered in Herrick, et al. v. Forward, et al. (Super. Ct. Tehama County, 1927, No. 4570).

Article 3. Definitions

301. Unless otherwise indicated by their context, the definitions set forth in this article govern the construction of this act.

302. "Appointed decree" means a decree for which the district is appointed the watermaster by the court.

303. "Appointed parcel" means a parcel of real property within the district that is a place of use for water rights under an appointed decree.

304. "Board of directors" or "board" means the board of directors of the district.

305. "Contracted parcel" means an eligible parcel whose owner has entered into a contract with the district to provide watermaster service for that parcel.

306. "County" means Shasta County and the parts of Tehama County referred to in Section 201.

307. "Court" means the Superior Court for the County of Shasta or the County of Tehama.

308. "Decree" or "decrees" means any water right decree, entered by the court, that adjudicates water rights within the county in which the decreed points of diversion are within the county.

309. "Department" means the Department of Water Resources.

310. "District" means the Shasta-Tehama County Watermaster District.

311. "Eligible parcel" means a parcel of real property within the district that is a place of use for water rights under a decree that is not an appointed decree, and for which the department is not the watermaster.

312. "Fund" means the fund designated by the court, or by the district in the absence of a designation by the court, into which assessments levied by the district shall be paid by the county upon collection.

314. "Person" means any state or local governmental agency, private corporation, firm, partnership, individual, group of individuals, or, to the extent authorized by law, any native tribe or federal agency.

315. "Voter" means a holder of a water right whose place of use under a decree is an appointed or contracted parcel. Voting shall be weighted proportionally to the amount of flow allocated to the water right under the decree.

Article 4. General Provisions

401. (a) The board of directors shall govern the district and shall exercise the powers of the district as set forth in this act.

(b) The board of directors of the district shall consist of seven members, as follows:

(1) One member shall be a voter within the Burney Creek Service Area. This member shall be elected by the voters within the Burney Creek Service Area.

(2) One member shall be a voter within the Hat Creek Service Area. This member shall be elected by the voters within the Hat Creek Service Area.

(3) One member shall be a voter within the North Fork Cottonwood Creek Service Area. This member shall be elected by the voters within the North Fork Cottonwood Creek Service Area.

(4) One member shall be a voter within the North Cow Creek Service Area. This member shall be elected by the voters within the North Cow Creek Service Area.

(5) One member shall be a voter within the Digger Creek Service Area. This member shall be elected by the voters within the Digger Creek Service Area.

(6) Two members shall be appointed by the Board of Supervisors of Shasta County. These members shall be residents of Shasta County and shall not be voters.

(c) If one or more service areas chooses not to participate in the district, a number of board members equivalent to the number of service areas so choosing shall be elected at large from among the participating service areas.

(d) A quorum of the board of directors shall be three members. A majority of affirmative votes of the full membership of the board shall be required to take an action.

(e) (1) On or before February 1, 2008, the Board of Supervisors of Shasta County shall appoint the members of the board of directors of the district with the qualifications required by subdivision (b), as if the Superior Court of Shasta County had appointed the district as watermaster. The Board of Supervisors of Tehama County shall appoint the Digger Creek Service Area member. The members of the board of directors appointed pursuant to this paragraph shall hold office until their successors are elected and qualified.

(2) At the first opportunity to conduct an election, the voters shall elect the members of the board of directors. At the first meeting of the board of directors following that election, the members of the board of directors shall classify themselves by lot into two classes. The first class shall have four members and the other class three members. For the first class, the term of office shall be four years. For the second class, the term of office shall be two years. Thereafter, the terms of all members of the board of directors shall be four years.

(3) Except as provided in paragraphs (1) and (2), the term of office for a member of the board of directors shall be four years.

(4) Members of the board of directors may be reelected.

(f) Except as otherwise provided in this act, the Uniform District Election Law (Part 4 (commencing with Section 10500) of Division 10 of the Elections Code) shall apply to elections within the district. For the purposes of the Uniform District Election Law, the district shall be deemed to be a landowner voting district.

(g) Any vacancy in the office of a member of the board of directors shall be filled pursuant to Section 1780 of the Government Code.

402. Consistent with Section 10525 of the Elections Code, for water rights with multiple holders, the holders shall designate in writing to the district, in accordance with a timetable established by the district, a voter from among their number for voting purposes.

403. (a) The board shall do all of the following:

(1) Act only by ordinance, resolution, or motion.

(2) Keep a record of all its actions, including financial transactions.

(3) Adopt rules or bylaws for its proceedings.

(4) Adopt policies for the operation of the district.

(b) The board may do all of the following:

(1) Provide, by ordinance or resolution, that its members may receive their actual and necessary traveling and incidental expenses incurred while on official business. Reimbursement for these expenses is subject to Sections 53232.2 and 52232.3 of the Government Code. A member of the board of directors may waive any or all of the payments permitted by this paragraph.

(2) Require any employee, officer, or member of the board to be bonded. The district shall pay the cost of the bonds.

(c) Before taking office, each elected director shall take the official oath and execute any bond that may be set by the board.

404. At the first meeting of the board, and at the first annual meeting each year thereafter, the board shall elect a chairperson and vice chairperson from among its members. The board shall appoint the secretary of the district. The secretary of the district may be a member of the board of directors or a district employee.

405. Meetings of the board shall be held pursuant to the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code).

406. The district shall have the following powers:

(a) Adopt ordinances following the procedures of Article 7 (commencing with Section 25120) of Chapter 1 of Part 2 of Division 2 of Title 3 of the Government Code.

(b) Adopt and enforce rules and regulations for the administration, operation, use, and maintenance of the district's facilities and property.

(c) Sue and be sued in its own name.

(d) Acquire any real or personal property within the district, by contract or otherwise, to hold, manage, occupy, dispose of, convey and encumber the property, and to create a leasehold interest in the property for the benefit of the district. The district shall not have the power of eminent domain.

(e) Appoint employees, define their qualifications and duties, and provide a schedule of compensation for performance of their duties.

(f) Engage counsel and other professional services.

(g) Enter into and perform all contracts. The district shall follow the procedures that apply to the county, including, but not limited to, the requirements of Article 3.6 (commencing with Section 20150) of Chapter 1 of Part 3 of Division 2 of the Public Contract Code.

(h) Adopt a seal and alter it.

(i) Take any and all actions necessary for, or incidental to, the powers expressed or implied by this act.

407. (a) The board of directors shall provide for regular audits of the district's accounts and records pursuant to Section 26909 of the Government Code.

(b) The board of directors shall provide for the annual financial reports to the Controller pursuant to Article 9 (commencing with Section 53890) of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code.

408. All claims for money or damages against the district are governed by Part 3 (commencing with Section 900) and Part 4 (commencing with Section 940) of Division 3.6 of Title 1 of the Government Code.

409. The district is not subject to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, Division 3 (commencing with Section 56000) of Title 5 of the Government Code.

410. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

Article 5. Powers and Duties

501. The district shall serve as the watermaster for any appointed decree, including, but not limited to, taking specific actions ordered by the court in the administration of that decree or decrees.

502. In carrying out its duties as watermaster, the district shall have the powers and duties that are set forth as powers and duties of the department in Part 4 (commencing with Section 4000) of Division 2 of the Water Code, except as modified by the court, and as follows:

(a) References to the department in that part shall be deemed to be references to the district.

(b) References to the Water Resources Revolving Fund in that part shall be deemed to be references to the fund.

(c) Charges levied by the district shall comply with Article XIII D of the California Constitution.

503. The district may enter into agreements to provide watermaster service to holders of a water right whose place of use is an eligible parcel where all holders of the water right have executed the agreement. An agreement to provide watermaster services to an eligible parcel shall include a provision that the holders agree to pay in full for the service prior to the provision of service. The amount to be paid shall be determined to ensure that the provision of the watermaster service to contracted parcels does not increase the cost of the watermaster service to appointed parcels.

504. (a) Amounts owed to Shasta County for services provided to the district by Shasta County shall be included in the district's budget for each watermaster service area, except for that portion of the district coterminous with Tehama County. The watermaster service areas within which these amounts have been incurred shall be identified and accounted for in the budget.

(b) Amounts owed to Tehama County for services provided to the district by Tehama County shall be included in the district's budget for that portion of the district coterminous with Tehama County.

SEC. 2. The Legislature finds and declares that this act, which is applicable only to the Shasta-Tehama County Watermaster District, is necessary because of the unique and special water problems in the area included in the district. It is, therefore, hereby declared that a general law within the meaning of Section 16 of Article IV of the California Constitution cannot be made applicable to the district and the enactment of this special law is necessary for the conservation, development, control, and use of that water for the public good.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

CHAPTER 435

An act to amend Section 68085 of the Government Code, relating to courts.

[Approved by Governor October 10, 2007. Filed with Secretary of State October 10, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 68085 of the Government Code is amended to read:

68085. (a) (1) There is hereby established the Trial Court Trust Fund, the proceeds of which shall be apportioned for the purposes authorized in this section, including apportionment to the trial courts to fund trial court operations, as defined in Section 77003.

(2) The apportionment payments shall be made by the Controller. The final payment from the Trial Court Trust Fund for each fiscal year shall be made on or before August 31 of the subsequent fiscal year.

(A) Notwithstanding any other provision of law, in order to promote statewide efficiency, the Judicial Council may authorize the direct payment or reimbursement or both of actual costs from the Trial Court Trust Fund or the Trial Court Improvement Fund to fund the costs of operating one or more trial courts upon the consent of participating courts. These paid or reimbursed costs may be for services provided to the court or courts by the Administrative Office of the Courts or payment for services or property of any kind contracted for by the court or courts or on behalf of the courts by the Administrative Office of the Courts. The amount of appropriations from the Trial Court Improvement Fund under this subdivision may not exceed 20 percent of the amount deposited in the Trial Court Improvement Fund pursuant to subdivision (a) of Section 77205. The direct payment or reimbursement of costs from the Trial Court Trust Fund may be supported by the reduction of a participating court's allocation from the Trial Court Trust Fund to the extent that the court's expenditures for the program are reduced and the court is supported by the expenditure. The Judicial Council shall provide the affected trial courts with quarterly reports on expenditures from the Trial Court Trust Fund incurred as authorized by this subdivision. The Judicial Council shall establish procedures to provide for the administration of this paragraph in a way that promotes the effective, efficient, reliable, and accountable operation of the trial courts.

(B) As used in subparagraph (A), the term "costs of operating one or more trial courts" includes any expenses related to operation of the court or performance of its functions, including, but not limited to, statewide administrative and information technology infrastructure supporting the courts. The term "costs of operating one or more trial courts" is not restricted to items considered "court operations" pursuant to Section 77003, but is subject to policies, procedures, and criteria established by the Judicial Council, and may not include an item that is a cost that must otherwise be paid by the county or city and county in which the court is located.

(b) Notwithstanding any other provision of law, the fees listed in subdivision (c) shall all be deposited upon collection in a special account in the county treasury, and transmitted monthly to the State Treasury for deposit in the Trial Court Trust Fund.

(c) (1) Except as specified in subdivision (d), this section applies to all fees collected on or before December 31, 2005, pursuant to Sections 631.3, 116.230, and 403.060 of the Code of Civil Procedure and Sections 26820.4, 26823, 26826, 26826.01, 26827, 26827.4, 26830, 26832.1, 26833.1, 26835.1, 26836.1, 26837.1, 26838, 26850.1, 26851.1, 26852.1, 26853.1, 26855.4, 26862, 68086, 72055, 72056, 72056.01, and 72060.

(2) Notwithstanding any other provision of law, except as specified in subdivision (d) of this section and subdivision (a) of Section 68085.7, this section applies to all fees and fines collected on or before December 31, 2005, pursuant to Sections 116.390, 116.570, 116.760, 116.860, 177.5, 491.150, 704.750, 708.160, 724.100, 1134, 1161.2, and 1218 of the Code of Civil Procedure, Sections 26824, 26828, 26829, 26834, and 72059 of the Government Code, and subdivisions (b) and (c) of Section 166 and Section 1214.1 of the Penal Code.

(3) If any of the fees provided for in this subdivision are partially waived by court order, and the fee is to be divided between the Trial Court Trust Fund and any other fund, the amount of the partial waiver shall be deducted from the amount to be distributed to each fund in the same proportion as the amount of each distribution bears to the total amount of the fee.

(d) This section does not apply to that portion of a filing fee collected pursuant to Section 26820.4, 26826, 26827, 72055, or 72056 that is allocated for dispute resolution pursuant to Section 470.3 of the Business and Professions Code, the county law library pursuant to Section 6320 of the Business and Professions Code, the Judges' Retirement Fund pursuant to Section 26822.3, automated recordkeeping or conversion to micrographics pursuant to Sections 26863 and 68090.7, and courthouse financing pursuant to Section 76238. This section also does not apply to fees collected pursuant to subdivisions (a) and (c) of Section 27361.

(e) This section applies to all payments required to be made to the State Treasury by any county or city and county pursuant to Section 77201, 77201.1, or 77205.

(f) Notwithstanding any other provision of law, no agency may take action to change the amounts allocated to any of the funds described in subdivision (a), (b), (c), or (d).

(g) The Judicial Council shall reimburse the Controller for the actual administrative costs that will be incurred under this section. Costs reimbursed under this section shall be determined on an annual basis in consultation with the Judicial Council.

(h) Any amounts required to be transmitted by a county or city and county to the state pursuant to this section shall be remitted to the State Treasury no later than 45 days after the end of the month in which the fees were collected. This remittance shall be accompanied by a remittance advice identifying the collection month and the appropriate account in the Trial Court Trust Fund to which it is to be deposited. Any remittance that is not made by the county or city and county in accordance with this section shall be considered delinquent, and subject to the interest and penalties specified in this section.

(i) Upon receipt of any delinquent payment required pursuant to this section, the Controller shall do the following:

(1) Calculate interest on the delinquent payment by multiplying the amount of the delinquent payment at a daily rate equivalent to the rate of return of money deposited in the Local Agency Investment Fund pursuant to Section 16429.1 from the date the payment was originally due to either 30 days after the date of the issuance by the Controller of the final audit report concerning the failure to pay or the date of payment by the entity responsible for the delinquent payment, whichever comes first.

(2) Calculate a penalty at a daily rate equivalent to 1 ½ percent per month from the date 30 days after the date of the issuance by the Controller of the final audit report concerning the failure to pay.

(j) (1) Interest or penalty amounts calculated pursuant to subdivision (i) shall be paid by the county, city and county, or court to the Trial Court Trust Fund no later than 45 days after the end of the month in which the interest or penalty was calculated. Payment shall be made by the entity responsible for the error or other action that caused the failure to pay, as determined by the Controller in notice given to that party by the Controller.

(2) Notwithstanding Section 77009, any interest or penalty on a delinquent payment that a court is required to make pursuant to this section and Section 24353 shall be paid from the Trial Court Operations Fund for that court.

(3) The Controller may permit a county, city and county, or court to pay the interest or penalty amounts according to a payment schedule in the event of a large interest or penalty amount that causes a hardship to the paying entity.

(4) The party responsible for the error or other action that caused the failure to pay may include, but is not limited to, the party that collected the funds who is not the party responsible for remitting the funds to the Trial Court Trust Fund, if the collecting party failed or delayed in providing the remitting party with sufficient information needed by the remitting party to distribute the funds.

(k) The Trial Court Trust Fund shall be invested in the Surplus Money Investment Fund and all interest earned shall be allocated to the Trial Court Trust Fund quarterly and shall be allocated among the courts in accordance with the requirements of subdivision (a). The specific allocations shall be specified by the Judicial Council.

(*l*) It is the intent of the Legislature that the revenues required to be deposited into the Trial Court Trust Fund be remitted as soon after collection by the courts as possible.

(m) Except for subdivisions (a) and (k), this section does not apply to fees and fines that are listed in subdivision (a) of Section 68085.1 that are collected on or after January 1, 2006.

(n) The changes made to subdivisions (i) and (j) of this section by the act adding this subdivision shall apply to all delinquent payments for which no final audit has been issued by the Controller prior to January 1, 2008.

CHAPTER 436

An act to amend Section 1255.410 of the Code of Civil Procedure, and to amend Section 7267.2 of the Government Code, relating to eminent domain.

[Approved by Governor October 10, 2007. Filed with Secretary of State October 10, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 1255.410 of the Code of Civil Procedure is amended to read:

1255.410. (a) At the time of filing the complaint or at any time after filing the complaint and prior to entry of judgment, the plaintiff may move the court for an order for possession under this article, demonstrating that the plaintiff is entitled to take the property by eminent domain and has deposited pursuant to Article 1 (commencing with Section 1255.010) an amount that satisfies the requirements of that article.

The motion shall describe the property of which the plaintiff is seeking to take possession, which description may be by reference to the complaint, and shall state the date after which the plaintiff is seeking to take possession of the property. The motion shall include a statement substantially in the following form: "You have the right to oppose this motion for an order of possession of your property. If you oppose this

motion you must serve the plaintiff and file with the court a written opposition to the motion within 30 days from the date you were served with this motion." If the written opposition asserts a hardship, it shall be supported by a declaration signed under penalty of perjury stating facts supporting the hardship.

(b) The plaintiff shall serve a copy of the motion on the record owner of the property and on the occupants, if any. The plaintiff shall set the court hearing on the motion not less than 60 days after service of the notice of motion on the record owner of unoccupied property. If the property is lawfully occupied by a person dwelling thereon or by a farm or business operation, service of the notice of motion shall be made not less than 90 days prior to the hearing on the motion.

(c) Not later than 30 days after service of the plaintiff's motion seeking to take possession of the property, any defendant or occupant of the property may oppose the motion in writing by serving the plaintiff and filing with the court the opposition. If the written opposition asserts a hardship, it shall be supported by a declaration signed under penalty of perjury stating facts supporting the hardship. The plaintiff shall serve and file any reply to the opposition not less than 15 days before the hearing.

(d) (1) If the motion is not opposed within 30 days of service on each defendant and occupant of the property, the court shall make an order for possession of the property if the court finds each of the following:

(A) The plaintiff is entitled to take the property by eminent domain.

(B) The plaintiff has deposited pursuant to Article 1 (commencing with Section 1255.010) an amount that satisfies the requirements of that article.

(2) If the motion is opposed by a defendant or occupant within 30 days of service, the court may make an order for possession of the property upon consideration of the relevant facts and any opposition, and upon completion of a hearing on the motion, if the court finds each of the following:

(A) The plaintiff is entitled to take the property by eminent domain.

(B) The plaintiff has deposited pursuant to Article 1 (commencing with Section 1255.010) an amount that satisfies the requirements of that article.

(C) There is an overriding need for the plaintiff to possess the property prior to the issuance of final judgment in the case, and the plaintiff will suffer a substantial hardship if the application for possession is denied or limited.

(D) The hardship that the plaintiff will suffer if possession is denied or limited outweighs any hardship on the defendant or occupant that would be caused by the granting of the order of possession.

(e) (1) Notwithstanding the time limits for notice prescribed by this section and Section 1255.450, a court may issue an order of possession upon an ex parte application by a water, wastewater, gas, electric, or telephone utility, as the court deems appropriate under the circumstances of the case, if the court finds each of the following:

(A) An emergency exists and as a consequence the utility has an urgent need for possession of the property. For purposes of this section, an emergency is defined to include, but is not limited to, a utility's urgent need to protect the public's health and safety or the reliability of utility service.

(B) An emergency order of possession will not displace or unreasonably affect any person in actual and lawful possession of the property to be taken or the larger parcel of which it is a part.

(2) Not later than 30 days after service of the order authorizing the plaintiff to take possession of the property, any defendant or occupant of the property may move for relief from an emergency order of possession that has been issued under this subdivision. The court may modify, stay, or vacate the order upon consideration of the relevant facts and any objections raised, and upon completion of a hearing if requested.

SEC. 2. Section 7267.2 of the Government Code is amended to read:

7267.2. (a) (1) Prior to adopting a resolution of necessity pursuant to Section 1245.230 of the Code of Civil Procedure and initiating negotiations for the acquisition of real property, the public entity shall establish an amount which it believes to be just compensation therefor, and shall make an offer to the owner or owners of record to acquire the property for the full amount so established, unless the owner cannot be located with reasonable diligence. The offer may be conditioned upon the legislative body's ratification of the offer by execution of a contract of acquisition or adoption of a resolution of necessity or both. In no event shall the amount be less than the public entity's approved appraisal of the fair market value of the property. Any decrease or increase in the fair market value of real property to be acquired prior to the date of valuation caused by the public improvement for which the property is acquired, or by the likelihood that the property would be acquired for the improvement, other than that due to physical deterioration within the reasonable control of the owner or occupant, shall be disregarded in determining the compensation for the property.

(2) At the time of making the offer described in paragraph (1), the public entity shall provide the property owner with an informational pamphlet detailing the process of eminent domain and the property owner's rights under the Eminent Domain Law.

(b) The public entity shall provide the owner of real property to be acquired with a written statement of, and summary of the basis for, the

amount it established as just compensation. The written statement and summary shall contain detail sufficient to indicate clearly the basis for the offer, including, but not limited to, all of the following information:

(1) The date of valuation, highest and best use, and applicable zoning of property.

(2) The principal transactions, reproduction or replacement cost analysis, or capitalization analysis, supporting the determination of value.

(3) Where appropriate, the just compensation for the real property acquired and for damages to remaining real property shall be separately stated and shall include the calculations and narrative explanation supporting the compensation, including any offsetting benefits.

(c) Where the property involved is owner occupied residential property and contains no more than four residential units, the homeowner shall, upon request, be allowed to review a copy of the appraisal upon which the offer is based. The public entity may, but is not required to, satisfy the written statement, summary, and review requirements of this section by providing the owner a copy of the appraisal on which the offer is based.

(d) Notwithstanding subdivision (a), a public entity may make an offer to the owner or owners of record to acquire real property for less than an amount which it believes to be just compensation therefor if (1) the real property is offered for sale by the owner at a specified price less than the amount the public entity believes to be just compensation therefor, (2) the public entity offers a price which is equal to the specified price for which the property is being offered by the landowner, and (3) no federal funds are involved in the acquisition, construction, or project development.

(e) As used in subdivision (d), "offered for sale" means any of the following:

(1) Directly offered by the landowner to the public entity for a specified price in advance of negotiations by the public entity.

(2) Offered for sale to the general public at an advertised or published, specified price set no more than six months prior to and still available at the time the public entity initiates contact with the landowner regarding the public entity's possible acquisition of the property.

CHAPTER 437

An act to amend Sections 11604, 11703, and 11705 of, to add Section 4456.3 to, and to add Chapter 11 (commencing with Section 12200) to Division 5 of, the Vehicle Code, relating to vehicles, and making an appropriation therefor.

[Approved by Governor October 10, 2007. Filed with
Secretary of State October 10, 2007.]

The people of the State of California do enact as follows:

SECTION 1. (a) The Legislature finds and declares that the sale of motor vehicles has a substantial effect on the economic well-being of the state and its citizens, and that the maintenance of integrity and fair business practices in vehicle sales and lease transactions is vitally important to the state.

(b) The Legislature further finds and declares that consumers have suffered economic loss as the result of the conduct of some motor vehicle dealers or lessor-retailers who have failed to remit amounts paid by consumers for license and registration fees, failed to pay the proceeds of consignment sales to consumer consignors, failed to discharge the obligations secured by liens on motor vehicles that are traded in in connection with the purchase of motor vehicles from the dealers or lessor-retailers, or failed to pay the amounts that the dealers or lessor-retailers agreed with consumers to pay to the lessors of motor vehicles that the consumers transferred as a trade-in to the dealers or lessor-retailers. The consumers who have been harmed often do not have adequate resources to pursue their claims against the dealers or lessor-retailers, and some of the dealers or lessor-retailers are insolvent and cannot satisfy legitimate claims. The resulting erosion of public confidence in motor vehicle sellers has deleterious economic consequences for reputable dealers and lessor-retailers.

(c) It is the intent and purpose of this act to instill and maintain public confidence in the vehicle trade-in and consignment sale processes by establishing a recovery fund with adequate resources based on reasonable assessments for each report-of-sale to compensate and safeguard members of the public who have suffered monetary loss as the result of any of the acts described in subdivision (b) and who are unable to have those claims satisfied because of a dealership closure or insolvency.

SEC. 2. Section 4456.3 is added to the Vehicle Code, to read:

4456.3. (a) The department shall charge a dealer or lessor-retailer a fee, as established by the director pursuant to subdivision (b), for each vehicle sold by a dealer or lessor-retailer and reported on a report-of-sale form issued by the department to a dealer or lessor-retailer, or for every vehicle sold by a dealer or lessor-retailer if that licensee does not use a report-of-sale form issued by the department because the report of the sale is given electronically or otherwise. The department shall collect the fee and the fees shall be paid to the Consumer Motor Vehicle Recovery Corporation as described in Chapter 11 (commencing with

Section 12200) of Division 5. The department shall not charge more than a total of two thousand five hundred dollars ($2,500) in fees under this section to a dealer licensee within a calendar year.

(b) The director shall establish the fee at one dollar ($1) and shall collect the fee. The director shall deposit the fees received in the Motor Vehicle Account. Notwithstanding Section 13340 of the Government Code, the revenues from the fees deposited in the Motor Vehicle Account, less an amount that the director determines is equal to the department's costs related to collecting and processing the fees, is hereby continuously appropriated to the department for quarterly payment to the Consumer Motor Vehicle Recovery Corporation until the Consumer Motor Vehicle Recovery Corporation notifies the department that the balance in the recovery fund maintained by the corporation has reached five million dollars ($5,000,000). Within 90 days after being notified by the Consumer Motor Vehicle Recovery Corporation, the director shall cease collecting the fee. Thereafter, if the amount in the recovery fund maintained by the corporation is less than two million dollars ($2,000,000), the Consumer Motor Vehicle Recovery Corporation shall notify the department of the amount necessary to return the recovery fund balance to five million dollars ($5,000,000). Within 90 days of being notified, the director shall collect the fee and pay the fee revenue required by this subdivision until the Consumer Motor Vehicle Recovery Corporation notifies the director that the recovery fund has reached five million dollars ($5,000,000). Within 90 days of being notified, the director shall cease collecting the fee.

(c) (1) The Consumer Motor Vehicle Recovery Corporation shall reimburse the department for all reasonable expenses incurred in implementing this section.

(2) The Consumer Motor Vehicle Recovery Corporation shall reimburse the department for all reasonable startup expenses incurred by the department to comply with this section within 90 days after the department begins collecting the fees and transmitting them to the Corporation as provided in this section.

(d) This section shall become operative on July 1, 2008.

SEC. 3. Section 11604 of the Vehicle Code is amended to read:

11604. The department may refuse to issue a lessor-retailer license when it makes any of the following determinations:

(a) The applicant has outstanding an unsatisfied final court judgment rendered in connection with an activity licensed under the authority of this division.

(b) The applicant was previously the holder, or a managerial employee of the holder, of a license issued under this division which was revoked

for cause and never reissued by the department, or which was suspended for cause and the terms of suspension have not been fulfilled.

(c) The applicant was previously a business representative whose license issued under this division was revoked for cause and never reissued or was suspended for cause and the terms of suspension have not been fulfilled.

(d) If the applicant is a business, a business representative was previously the holder of a license, or was a business representative of a business whose license, issued under this division, was revoked for cause and never reissued or was suspended for cause and the terms of suspension have not been fulfilled; or, by reason of the facts and circumstances related to the organization, control, and management of the business, the operation of that business will be directed, controlled, or managed by individuals who, by reason of their conviction of violations of this code, would be ineligible for a license and, by licensing that business, the purposes of this chapter would be defeated.

(e) The applicant, or a business representative if the applicant is a business, has been convicted of a crime or committed any act or engaged in conduct involving moral turpitude which is substantially related to the qualifications, functions, or duties of the licensed activity. A conviction after a plea of nolo contendere is a conviction within the meaning of this section.

(f) The applicant was previously the holder of an occupational license issued by another state, authorizing the same or similar activities of a license issued under this division; and that license was revoked or suspended for cause and was never reissued, or was suspended for cause, and the terms of suspension have not been fulfilled.

(g) The information contained in the application is incorrect.

(h) A decision of the department to cancel, suspend, or revoke a license has been made, and the applicant was a business representative of the business regulated under that license.

(i) The applicant does not have a principal place of business in California.

(j) The applicant has failed to pay the full amount of a claim paid by the Consumer Motor Vehicle Recovery Corporation, plus interest at the rate of 10 percent per annum, as described in subdivision (i) of Section 11703.

SEC. 4. Section 11703 of the Vehicle Code is amended to read:

11703. The department may refuse to issue a license to a manufacturer, manufacturer branch, remanufacturer, remanufacturer branch, distributor, distributor branch, transporter, or dealer, if it determines any of the following:

(a) The applicant was previously the holder, or a managerial employee of the holder, of a license issued under this chapter which was revoked for cause and never reissued by the department, or which was suspended for cause and the terms of suspension have not been fulfilled.

(b) The applicant was previously a business representative of a business whose license issued under this chapter was revoked for cause and never reissued or was suspended for cause and the terms of suspension have not been fulfilled.

(c) If the applicant is a business, a business representative of the business was previously the holder of a license, or was a business representative of a business whose license, issued under this chapter was revoked for cause and never reissued or was suspended for cause and the terms of suspension have not been fulfilled; or, by reason of the facts and circumstances related to the organization, control, and management of the business, the operation of that business will be directed, controlled, or managed by individuals who, by reason of their conviction of violations of the provisions of this code, would be ineligible for a license and, by licensing the business, the purposes of this chapter would be defeated.

(d) The applicant, or a business representative if the applicant is a business, has been convicted of a crime or committed an act or engaged in conduct involving moral turpitude which is substantially related to the qualifications, functions, or duties of the licensed activity. A conviction after a plea of nolo contendere is a conviction within the meaning of this section.

(e) The applicant was previously the holder of an occupational license issued by another state, authorizing the same or similar activities of a license issued under this division; and that license was revoked or suspended for cause and was never reissued, or was suspended for cause, and the terms of suspension have not been fulfilled.

(f) The information contained in the application is incorrect.

(g) Upon investigation, the business history required by Section 11704 contains incomplete or incorrect information, or reflects substantial business irregularities.

(h) A decision of the department to cancel, suspend, or revoke a license has been made and the applicant was a business representative of the business regulated under that license.

(i) The applicant has failed to repay the full amount of a claim paid by the Consumer Motor Vehicle Recovery Corporation, plus interest at the rate of 10 percent per annum. The dealer or lessor-retailer's discharge in bankruptcy shall not relieve the dealer or lessor-retailer from the provisions of this subdivision, except to the extent, if any, mandated by bankruptcy law.

SEC. 5. Section 11705 of the Vehicle Code is amended to read:

11705. (a) The department, after notice and hearing, may suspend or revoke the license issued to a dealer, transporter, manufacturer, manufacturer branch, remanufacturer, remanufacturer branch, distributor, or distributor branch upon determining that the person to whom the license was issued is not lawfully entitled thereto, or has done any of the following:

(1) Filed an application for the license using a false or fictitious name not registered with the proper authorities, or knowingly made a false statement or knowingly concealed a material fact, in the application for the license.

(2) Made, or knowingly or negligently permitted, an illegal use of the special plates issued to the licensee.

(3) Used a false or fictitious name, knowingly made a false statement, or knowingly concealed a material fact, in an application for the registration of a vehicle, or otherwise committed a fraud in the application.

(4) Failed to deliver to a transferee lawfully entitled thereto a properly endorsed certificate of ownership.

(5) Knowingly purchased, sold, or otherwise acquired or disposed of a stolen motor vehicle.

(6) Failed to provide and maintain a clear physical division between the type of business licensed pursuant to this chapter and any other type of business conducted at the established place of business.

(7) Willfully violated Section 3064 or 3065 or any rule or regulation adopted pursuant thereto.

(8) Violated any provision of Division 3 (commencing with Section 4000) or any rule or regulation adopted pursuant thereto, or subdivision (a) of Section 38200.

(9) Violated any provision of Division 4 (commencing with Section 10500) or any rule or regulation adopted pursuant thereto.

(10) Violated any provision of Article 1 (commencing with Section 11700) of Chapter 4 of Division 5 or any rule or regulation adopted pursuant thereto.

(11) Violated any provision of Part 5 (commencing with Section 10701) of Division 2 of the Revenue and Taxation Code or any rule or regulation adopted pursuant thereto.

(12) Violated any provision of Chapter 2b (commencing with Section 2981) of Title 14 of Part 4 of Division 3 of the Civil Code or any rule or regulation adopted pursuant thereto.

(13) Submitted a check, draft, or money order to the department for any obligation or fee due the state which was dishonored or refused payment upon presentation.

(14) Has caused any person to suffer any loss or damage by reason of any fraud or deceit practiced on that person or fraudulent representations made to that person in the course of the licensed activity.

For purposes of this paragraph, "fraud" includes any act or omission which is included within the definition of either "actual fraud" or "constructive fraud" as defined in Sections 1572 and 1573 of the Civil Code, and "deceit" has the same meaning as defined in Section 1710 of the Civil Code. In addition, "fraud" and "deceit" include, but are not limited to, a misrepresentation in any manner, whether intentionally false or due to gross negligence, of a material fact; a promise or representation not made honestly and in good faith; an intentional failure to disclose a material fact; and any act within Section 484 of the Penal Code.

For purposes of this paragraph, "person" also includes a governmental entity.

(15) Failed to meet the terms and conditions of an agreement entered into pursuant to Section 11707.

(16) Violated Section 43151, 43152, or 43153 of, or subdivision (b) of Section 44072.10 of, the Health and Safety Code.

(17) Failed to repay a claim paid by the Consumer Motor Vehicle Recovery Corporation as provided in subdivision (i) of Section 11703.

(b) Any of the causes specified in this chapter as a cause for refusal to issue a license to a transporter, manufacturer, manufacturer branch, remanufacturer, remanufacturer branch, distributor, distributor branch, or dealer applicant is cause to suspend or revoke a license issued to a transporter, manufacturer, manufacturer branch, remanufacturer, remanufacturer branch, distributor, distributor branch, or dealer.

(c) Except as provided in Section 11707, every hearing provided for in this section shall be conducted pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 6. Chapter 11 (commencing with Section 12200) is added to Division 5 of the Vehicle Code, to read:

Chapter 11. Consumer Recovery Fund

12200. The following definitions apply to this chapter:

(a) "Application" means an application to the recovery corporation for the payment of an eligible claim from the recovery fund that is filed with the recovery corporation after January 1, 2009.

(b) "Consumer" means a person who either (1) purchased or leased, or became obligated to purchase or lease, a motor vehicle to be used primarily for personal, family, or household purposes from a dealer or lessor-retailer licensed under this code, or (2) consigned for sale a motor

vehicle that was used primarily for personal, family, or household purposes to a dealer licensed under this code.

(c) "Eligible claim" means an unsatisfied claim for economic loss, not barred by the statutes of limitation, that accrues after July 1, 2008, as a result of the failure of a dealer licensed under this code, or if applicable, a lessor-retailer licensed under this code, to do any of the following:

(1) Remit license or registration fees received or contractually obligated to be paid from a consumer to the department.

(2) Pay to the legal owner of a vehicle transferred as a trade-in by a consumer to the dealer or lessor-retailer the amount necessary to discharge the prior credit balance owed to the legal owner.

(3) Pay to the lessor registered in accordance with Section 4453.5 of a vehicle transferred as a trade-in by a consumer to the dealer or lessor-retailer the amount the dealer or lessor-retailer agreed to pay to the lessor.

(4) Pay the amount specified in a consignment agreement to a consumer after the sale of a consigned vehicle.

(d) "Participant" means a dealer licensed under this code or a lessor-retailer licensed under this code.

(e) "Recovery corporation" means the Consumer Motor Vehicle Recovery Corporation.

(f) "Recovery fund" means the consumer recovery fund established by the recovery corporation pursuant to Section 12203 for the payment of eligible claims.

12201. (a) Participants shall maintain a corporation under the Nonprofit Mutual Benefit Corporation Law (Part 3 (commencing with Section 7110) of Division 2 of Title 1 of the Corporations Code) that shall operate under the name "Consumer Motor Vehicle Recovery Corporation."

(b) The purpose of the Consumer Motor Vehicle Recovery Corporation is to provide payments to consumers on eligible claims subject to the requirements and limitations set forth in this chapter.

(c) A participant may not charge or collect from a consumer a separate fee or charge to recoup the fee paid by the participant pursuant to Section 4456.3.

(d) The State of California and its officers, agents, or employees shall not be liable for any act or omission of the recovery corporation or its directors, officers, agents, or employees.

12202. (a) The recovery corporation shall have a board of directors composed of six directors, as follows:

(1) One public consumer representative member appointed by the Director of Consumer Affairs who shall serve until the appointment is

revoked, another appointment is made, or until the appointed director resigns. The consumer representative shall be either of the following:

(A) A current or former prosecutor with at least two years of direct experience in the civil or criminal enforcement of consumer protection laws, including laws prohibiting deceptive advertising and unlawful and fraudulent practices.

(B) A current or former employee of a government agency who has at least two years of direct experience in one of the following:

(i) The investigation, mediation, and resolution of consumer complaints.

(ii) Providing counseling, information, education, or referral services to consumers.

(iii) Administering a consumer protection program that provides any of the services described in clause (i) or (ii).

(2) A representative of the Attorney General, who shall serve as an ex officio, nonvoting member.

(3) One member of the general public appointed by the Senate Committee on Rules to a two-year term.

(4) One member of the general public appointed by the Speaker of the Assembly to a two-year term, except that the initial appointment to the board of directors shall be for a one-year term.

(5) Two participants, who shall be appointed by the Governor for two-year terms, except that the initial term of the position of one of the participant directors shall be for a one-year term.

(b) A person is eligible to be nominated and to serve as a participant director if the person satisfies all of the following conditions:

(1) The person's primary occupation, at the time of nomination and continuously during the previous three years, has been as an owner or general manager of a licensed dealer or lessor-retailer.

(2) The person has not been convicted of a crime, including a plea or verdict of guilty or a conviction following a plea of nolo contendere.

(3) The person is not subject to a judgment or administrative order, whether entered after adjudication or stipulation, predicated on that person's commission of an act of dishonesty, fraud, deceit, or violation of this chapter or Chapter 5 (commencing with Section 17200) of Part 2 of Division 7 of the Business and Professions Code.

(4) The person is not a defendant in a pending criminal or civil law enforcement action brought by a public prosecutor.

(5) The person has not served as a participant director of the recovery corporation at any time during the previous 18 months.

(c) A director who does not qualify to be a participant director, whose term has lapsed, or who otherwise becomes unable to serve shall not continue to serve as a director.

12203. (a) The recovery corporation shall establish a consumer recovery fund for the payment of claims as provided in this chapter. The recovery corporation shall receive funds from the department as provided in Section 4456.3 and shall promptly notify the department when the recovery fund balance reaches the amounts specified in subdivision (b) of Section 4456.3.

(b) The recovery corporation shall establish and maintain an operations account within the recovery fund for the payment of costs of operations and administration. The recovery corporation shall prepare, prior to its fiscal year end, an estimated annual operational budget projecting the costs of operations and administration for the succeeding fiscal year, excluding the amount paid for claims. The recovery corporation shall not expend more than two hundred fifty thousand dollars ($250,000) each fiscal year from the operations account for the administration of this chapter.

(c) The recovery corporation shall invest all funds received from the department pursuant to Section 4456.3, and interest earned on those funds, deposited in the recovery fund, in a federally insured account or in federally insured certificates of deposit at a California state or federally chartered bank or savings bank.

(d) The recovery corporation holds all money in the recovery fund in trust for the purposes provided in this chapter and shall disburse funds only as provided in this chapter.

(e) The recovery corporation shall separately account for disbursements and collections. The accounting shall include a record of each claim paid that indicates the name, address, and phone number of each claimant receiving payment, the amount of the payment, and the name of the participant for which a claim was paid. Quarterly reports shall be provided to the office of the Attorney General, Consumer Law Section, commencing on or before October 31, 2008, and within 30 days after the end of each quarter thereafter.

(f) The recovery corporation may adopt reasonable written bylaws, rules, and procedures to carry out the purposes of this chapter. The representative of the Attorney General may vote on the adoption of bylaws, rules, and procedures notwithstanding paragraph (2) of subdivision (a) of Section 12202.

12204. (a) A consumer may file an application with the recovery corporation for the payment of the consumer's eligible claim if a dealer or lessor-retailer against whom the claim is asserted has ceased selling and leasing motor vehicles to the general public or has become subject to a petition in bankruptcy.

(b) (1) The application shall be verified and shall set forth all of the following information:

(A) The consumer's name, address, and telephone number.

(B) The amount of the eligible claim.

(C) A description of the circumstances demonstrating an eligible claim.

(D) A statement indicating the consumer's belief that the dealer or lessor-retailer has ceased selling and leasing motor vehicles to the general public or has become subject to a petition in bankruptcy and the reasons for this belief.

(E) A statement indicating what action, if any, the applicant has taken to recover the amount of the eligible claim.

(F) A statement indicating that the consumer's application for payment does not include any amount for which the consumer has obtained recovery under the dealer's bond required by Section 11710.

(2) Nothing in this chapter shall be construed to require a consumer to bring a civil action to obtain recovery, file a bankruptcy claim, or file a crime report with a law enforcement agency in order to obtain payment of an eligible claim submitted to the recovery corporation.

(c) The application shall be accompanied by a copy of the agreement between the consumer and the dealer or lessor-retailer, unless the agreement is unnecessary to the recovery corporation's determination of the validity of the claim.

(d) If the eligible claim is based on the failure to remit license or registration fees, the application shall be accompanied by evidence demonstrating that the consumer paid money or other consideration for the fees, or became obligated to pay the fees, and that the fees had not been remitted. The eligible claim shall be limited to the dollar amount of the license or registration fees not remitted and a late charge or penalty.

(e) If the eligible claim is based on the failure to pay the proceeds of a consignment sale, the application shall be accompanied by the consignment agreement, evidence that the consigned vehicle was sold, and by the consumer's verified statement that the consumer did not receive the portion of the proceeds of the sale to which the consumer was entitled. The eligible claim is limited to the dollar amount specified in a written consignment agreement to be paid to the consignor.

(f) If the eligible claim is based on the failure to pay the legal owner of the consumer's trade-in vehicle, the application shall be accompanied by a statement from the legal owner of the amount, if any, that he or she received from the dealer or lessor-retailer. The eligible claim is limited to the dollar amount necessary to discharge the credit balance owing on the trade-in vehicle.

(g) If the eligible claim is based on the failure to pay the lessor of the consumer's trade-in vehicle, the application shall be accompanied by a statement from the lessor of the amount, if any, that the lessor received

from the dealer or lessor-retailer. The eligible claim is limited to the dollar amount necessary to pay the lessor the total amount that the dealer or lessor-retailer agreed with the consumer to pay the lessor.

(h) The recovery corporation may require reasonable additional information designed to facilitate payment of eligible claims.

(i) (1) For claims that have accrued on or after July 1, 2008, and before January 1, 2009, the application shall be filed within 18 months of the date upon which the dealer or lessor-retailer ceased selling or leasing motor vehicles to the general public or became subject to a petition in bankruptcy.

(2) For claims that have accrued on or after January 1, 2009, the application shall be filed within one year of the date upon which the dealer or lessor-retailer ceased selling or leasing motor vehicles to the general public or became subject to a petition in bankruptcy.

12205. The recovery corporation shall develop a notice fully explaining a consumer's right to make a claim from the fund, an application form, and an explanation of how to complete the application. The notice, application, and explanation shall be in English and Spanish and shall be provided to a person upon request.

12206. (a) Within 30 days of receiving an application, the recovery corporation shall notify the applicant, in writing, that the application is complete or, if the application is incomplete, what additional information is required.

(b) (1) Within 60 days of the recovery corporation providing notice to the applicant of a complete application, the recovery corporation shall either pay the eligible claim from the fund as prescribed in this chapter or deny the claim. A claim shall be deemed granted unless the directors affirmatively vote to deny the claim.

(2) The recovery corporation, for good cause, may extend the 60-day period not more than an additional 90 days to investigate the accuracy of the application or evidence submitted by a dealer or lessor-retailer.

(c) A director shall not be involved in the decision of a claim if the director has a financial interest in the outcome of the decision; has a financial interest in or is employed by the participant that is the subject of the claim; or has a familial or close personal relationship with the claimant or an owner, officer, director, or manager of the participant.

12207. (a) Within 15 days of receiving a complete application, the recovery corporation shall serve a copy of the complete application and the following notice on the dealer or lessor-retailer that is the subject of the claim:

"NOTICE"

"The attached application has been made to the Consumer Motor Vehicle Recovery Corporation for payment of a claim allegedly arising out of your conduct or omission. If you wish to contest payment, you must file a written response to the application that describes any evidence that you have showing that the application is inaccurate or that payment from the fund is not authorized under Section 12200 and following of the Vehicle Code, a copy of which is provided.

"The allegations stated in the attached application may constitute grounds on which disciplinary action may be taken to suspend or revoke your license. In addition, the Department of Motor Vehicles may suspend your license until you have repaid in full the amount paid by the Consumer Motor Vehicle Recovery Corporation on the attached application, plus interest at the rate of 10 percent per annum."

(b) The notice prescribed by subdivision (a), a copy of the application for payment, and a copy of this chapter shall be served on the dealer or lessor-retailer by personal service or certified mail, return receipt requested, at the department's mailing address of record for that licensee.

12208. If the recovery corporation pays the claim, the amount of the payment shall be the total of the amount of the eligible claim, but in no event may the payment exceed thirty-five thousand dollars ($35,000) for a transaction.

12209. If the recovery corporation denies the claim, the recovery corporation shall notify the applicant in writing of the denial, the legal and factual bases for the denial, and the applicant's right to contest the denial in writing within 60 days or any longer period permitted by the recovery corporation. If the applicant does not contest the denial within 60 days or an additional period reasonably requested by the consumer, the decision shall be final. The recovery corporation shall act on the applicant's objection within 30 days. If the claim is denied in whole or in part, the applicant may seek review in the superior court of any of the following counties in which the office of the Attorney General maintains an office: Sacramento, San Francisco, Los Angeles, or San Diego. Review shall be limited to the written record before the recovery corporation and any relevant evidence that could not have been previously presented to the recovery corporation despite the applicant's reasonable diligence. The superior court shall affirm the decision of the recovery corporation if it is supported by substantial evidence.

12210. After the recovery corporation pays or rejects a claim, all of the following apply:

(a) Immediately upon payment, the recovery corporation shall be subrogated to all of the consumer's rights against the dealer or lessor-retailer to the extent of the amount of the payment.

(b) The recovery corporation may bring an action to recover the amount of the payment plus interest at the rate of 10 percent per annum and shall be entitled to recover costs and reasonable attorney's fees.

(c) Within 10 days of paying the claim, the recovery corporation shall inform the department of the payment of the claim, the amount of the payment, and the name and address of the dealer or lessor-retailer that is the subject of the claim. Upon the department's request, the recovery corporation shall provide the department with a copy of the claim application and other documents received by the recovery corporation in connection with the claim.

(d) Within 15 days of paying or rejecting the claim, the recovery corporation shall serve the dealer or lessor-retailer that is the subject of the claim with notice of the recovery corporation's disposition of the claim in the manner provided for service in subdivision (b) of Section 12207.

(e) After the consumer receives payment of the eligible claim from the recovery corporation, the consumer shall not seek to recover the amount received from the recovery corporation for the eligible claim from the dealer's bond required by Section 11710. Nothing in this subdivision affects any other rights the consumer may have as provided in Section 12217.

12211. If the recovery corporation has insufficient funds to pay all eligible claims, the recovery corporation shall pay eligible claims in the order that the claim applications were received and shall hold the remaining claims until funds are available to pay those claims.

12212. (a) Within 30 days after the close of the fiscal year or other reasonable period established by the board of directors, the recovery corporation shall make publicly available a statement of the following information concerning the most recently concluded fiscal year:

(1) The number of claims and approximate dollar amount of the claims received.

(2) The total number of claims and total dollar amount of claims paid.

(3) The approximate number and dollar amount of claims denied or abandoned.

(4) The dollar balance in the recovery fund.

(5) The dollar amount of fees received pursuant to Section 4456.3.

(6) The administrative costs and expenses of the recovery corporation.

(b) The recovery corporation shall make publicly available within 15 days of approval by the board of directors or other reasonable period established by the board of directors, the following information:

(1) The approved minutes of meetings of the board of directors.

(2) The approved estimated annual operational budget projecting the costs of operations and administration for the succeeding fiscal year, excluding the amount to be paid for claims.

(3) The approved bylaws, as amended, of the recovery corporation.

(c) Information may be made publicly available as required by this section by disseminating the information on an Internet Web site or providing the information by electronic mail to a person who has requested the information and provided a valid electronic mail address.

12213. The operation of the recovery corporation shall at all times be subject to the examination and review of the Attorney General and the Attorney General's representatives. The Attorney General and his or her representatives may at any time investigate the affairs and examine the books, accounts, records, and files used by the recovery corporation. The Attorney General and his or her representatives shall have free access to the offices, books, accounts, papers, records, files, safes, and vaults of the recovery corporation and may copy any documents of, or in the possession of, the recovery corporation.

12214. The Attorney General or his or her representative may determine that the recovery corporation has failed or ceased to operate upon a finding that any one of the following has occurred with respect to the recovery corporation:

(a) The recovery corporation was not created.

(b) The recovery corporation is dissolved.

(c) The recovery corporation ceased to operate.

(d) The recovery corporation is insolvent or bankrupt.

(e) The recovery corporation failed to pay its operating costs.

(f) The recovery corporation failed to pay any claim or judgment in a timely manner.

(g) The recovery corporation violated its articles of incorporation or any law of this state.

(h) The recovery corporation invested its funds in violation of this chapter.

(i) The recovery corporation has not diligently made a decision upon a claim made by a person aggrieved.

(j) The recovery corporation violated any section of this chapter.

(k) The recovery corporation neglected or refused to submit its books, papers, and affairs to the inspection of the Attorney General or his or her representatives.

12215. If the recovery corporation is dissolved or ceases to exist, or if the Attorney General or his or her representative makes a determination, pursuant to Section 12214, that the recovery corporation has failed or ceased to operate, all outstanding debts, obligations of the recovery corporation, and amounts due for services rendered shall first

be paid from the remaining assets, including the recovery fund. The assets remaining, after settling those liabilities, shall be distributed to the participants, less the costs of that distribution.

12216. All costs and expenses incurred by the Department of Justice in the administration of this chapter shall be paid to the Department of Justice by the recovery corporation. The Department of Justice may institute an action for the recovery of costs and expenses incurred in the administration of this article in any court of competent jurisdiction.

12217. Nothing in this chapter is intended to limit or restrict actions, remedies, penalties, or procedures otherwise available pursuant to any other provision of law.

SEC. 7. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CHAPTER 438

An act to amend Sections 19801, 19805, 19851, 19853, 19854, 19867, 19876, and 19951 of the Business and Professions Code, and to add Section 336.5 to the Penal Code, relating to gambling.

[Approved by Governor October 10, 2007. Filed with Secretary of State October 10, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 19801 of the Business and Professions Code is amended to read:

19801. The Legislature hereby finds and declares all of the following:

(a) State law prohibits commercially operated lotteries, banked or percentage games, and gambling machines, and strictly regulates parimutuel wagering on horse racing. To the extent that state law categorically prohibits certain forms of gambling and prohibits gambling devices, nothing herein shall be construed, in any manner, to reflect a legislative intent to relax those prohibitions.

(b) The State of California has permitted the operation of gambling establishments for more than 100 years. Gambling establishments were

first regulated by the State of California pursuant to legislation which was enacted in 1984. Gambling establishments currently employ more than 20,000 people in the State of California, and contribute more than one hundred million dollars ($100,000,000) in taxes and fees to California's government. Gambling establishments are lawful enterprises in the State of California, and are entitled to full protection of the laws of this state.

(c) Gambling can become addictive and is not an activity to be promoted or legitimized as entertainment for children and families.

(d) Unregulated gambling enterprises are inimical to the public health, safety, welfare, and good order. Accordingly, no person in this state has a right to operate a gambling enterprise except as may be expressly permitted by the laws of this state and by the ordinances of local governmental bodies.

(e) It is the policy of this state that gambling activities that are not expressly prohibited or regulated by state law may be prohibited or regulated by local government. Moreover, it is the policy of this state that no new gambling establishment may be opened in a city, county, or city and county in which a gambling establishment was not operating on and before January 1, 1984, except upon the affirmative vote of the electors of that city, county, or city and county.

(f) It is not the purpose of this chapter to expand opportunities for gambling, or to create any right to operate a gambling enterprise in this state or to have a financial interest in any gambling enterprise. Rather, it is the purpose of this chapter to regulate businesses that offer otherwise lawful forms of gambling games.

(g) Public trust that permissible gambling will not endanger public health, safety, or welfare requires that comprehensive measures be enacted to ensure that gambling is free from criminal and corruptive elements, that it is conducted honestly and competitively, and that it is conducted in suitable locations.

(h) Public trust and confidence can only be maintained by strict and comprehensive regulation of all persons, locations, practices, associations, and activities related to the operation of lawful gambling establishments and the manufacture and distribution of permissible gambling equipment.

(i) All gambling operations, all persons having a significant involvement in gambling operations, all establishments where gambling is conducted, and all manufacturers, sellers, and distributors of gambling equipment must be licensed and regulated to protect the public health, safety, and general welfare of the residents of this state as an exercise of the police powers of the state.

(j) To ensure that gambling is conducted honestly, competitively, and free of criminal and corruptive elements, all licensed gambling

establishments in this state must remain open to the general public and the access of the general public to licensed gambling activities must not be restricted in any manner, except as provided by the Legislature. However, subject to state and federal prohibitions against discrimination, nothing herein shall be construed to preclude exclusion of unsuitable persons from licensed gambling establishments in the exercise of reasonable business judgment.

(k) In order to effectuate state policy as declared herein, it is necessary that gambling establishments, activities, and equipment be licensed, that persons participating in those activities be licensed or registered, that certain transactions, events, and processes involving gambling establishments and owners of gambling establishments be subject to prior approval or permission, that unsuitable persons not be permitted to associate with gambling activities or gambling establishments, and that gambling activities take place only in suitable locations. Any license or permit issued, or other approval granted pursuant to this chapter, is declared to be a revocable privilege, and no holder acquires any vested right therein or thereunder.

(*l*) The location of lawful gambling premises, the hours of operation of those premises, the number of tables permitted in those premises, and wagering limits in permissible games conducted in those premises are proper subjects for regulation by local governmental bodies. However, consideration of those same subjects by a state regulatory agency, as specified in this chapter, is warranted when local governmental regulation respecting those subjects is inadequate or the regulation fails to safeguard the legitimate interests of residents in other governmental jurisdictions.

(m) The exclusion or ejection of certain persons from gambling establishments is necessary to effectuate the policies of this chapter and to maintain effectively the strict regulation of licensed gambling.

(n) Records and reports of cash and credit transactions involving gambling establishments may have a high degree of usefulness in criminal and regulatory investigations and, therefore, licensed gambling operators may be required to keep records and make reports concerning significant cash and credit transactions.

SEC. 2. Section 19805 of the Business and Professions Code, as amended by Section 3 of Chapter 176 of the Statutes of 2007, is amended to read:

19805. As used in this chapter, the following definitions shall apply:

(a) "Affiliate" means a person who, directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, a specified person.

(b) "Applicant" means any person who has applied for, or is about to apply for, a state gambling license, a key employee license, a registration,

a finding of suitability, a work permit, a manufacturer's or distributor's license, or an approval of any act or transaction for which the approval or authorization of the commission or department is required or permitted under this chapter.

(c) "Banking game" or "banked game" does not include a controlled game if the published rules of the game feature a player-dealer position and provide that this position must be continuously and systematically rotated amongst each of the participants during the play of the game, ensure that the player-dealer is able to win or lose only a fixed and limited wager during the play of the game, and preclude the house, another entity, a player, or an observer from maintaining or operating as a bank during the course of the game. For purposes of this section it is not the intent of the Legislature to mandate acceptance of the deal by every player if the department finds that the rules of the game render the maintenance of or operation of a bank impossible by other means. The house shall not occupy the player-dealer position.

(d) "Chief" means the head of the entity within the department that is responsible for fulfilling the obligations imposed upon the department by this chapter.

(e) "Commission" means the California Gambling Control Commission.

(f) "Controlled gambling" means to deal, operate, carry on, conduct, maintain, or expose for play any controlled game.

(g) "Controlled game" means any controlled game, as defined by subdivision (e) of Section 337j of the Penal Code.

(h) "Department" means the Department of Justice.

(i) "Director" means any director of a corporation or any person performing similar functions with respect to any organization.

(j) "Finding of suitability" means a finding that a person meets the qualification criteria described in subdivisions (a) and (b) of Section 19857, and that the person would not be disqualified from holding a state gambling license on any of the grounds specified in Section 19859.

(k) "Game" and "gambling game" means any controlled game.

(*l*) "Gambling" means to deal, operate, carry on, conduct, maintain, or expose for play any controlled game.

(m) "Gambling enterprise employee" means any natural person employed in the operation of a gambling enterprise, including, without limitation, dealers, floor personnel, security employees, countroom personnel, cage personnel, collection personnel, surveillance personnel, data-processing personnel, appropriate maintenance personnel, waiters and waitresses, and secretaries, or any other natural person whose employment duties require or authorize access to restricted gambling establishment areas.

(n) "Gambling establishment," "establishment," or "licensed premises," except as otherwise defined in Section 19812, means one or more rooms where any controlled gambling or activity directly related thereto occurs.

(o) "Gambling license" or "state gambling license" means any license issued by the state that authorizes the person named therein to conduct a gambling operation.

(p) "Gambling operation" means exposing for play one or more controlled games that are dealt, operated, carried on, conducted, or maintained for commercial gain.

(q) "Gross revenue" means the total of all compensation received for conducting any controlled game, and includes interest received in payment for credit extended by an owner licensee to a patron for purposes of gambling, except as provided by regulation.

(r) "Hours of operation" means the period during which a gambling establishment is open to conduct the play of controlled games within a 24-hour period. In determining whether there has been expansion of gambling relating to "hours of operation," the department shall consider the hours in the day when the local ordinance permitted the gambling establishment to be open for business on January 1, 1996, and compare the current ordinance and the hours during which the gambling establishment may be open for business. The fact that the ordinance was amended to permit gambling on a day, when gambling was not permitted on January 1, 1996, shall not be considered in determining whether there has been gambling in excess of that permitted by Section 19961.

(s) "House" means the gambling establishment, and any owner, shareholder, partner, key employee, or landlord thereof.

(t) "Independent agent," except as provided by regulation, means any person who does either of the following:

(1) Collects debt evidenced by a credit instrument.

(2) Contracts with an owner licensee, or an affiliate thereof, to provide services consisting of arranging transportation or lodging for guests at a gambling establishment.

(u) "Initial license" means the license first issued to a person authorizing that person to commence the activities authorized by that license.

(v) "Institutional investor" means any retirement fund administered by a public agency for the exclusive benefit of federal, state, or local public employees, any investment company registered under the Investment Company Act of 1940 (15 U.S.C. Sec. 80a-1 et seq.), any collective investment trust organized by banks under Part Nine of the Rules of the Comptroller of the Currency, any closed-end investment trust, any chartered or licensed life insurance company or property and

casualty insurance company, any banking and other chartered or licensed lending institution, any investment advisor registered under the Investment Advisors Act of 1940 (15 U.S.C. Sec. 80b-1 et seq.) acting in that capacity, and other persons as the commission may determine for reasons consistent with the policies of this chapter.

(w) "Key employee" means any natural person employed in the operation of a gambling enterprise in a supervisory capacity or empowered to make discretionary decisions that regulate gambling operations, including, without limitation, pit bosses, shift bosses, credit executives, cashier operations supervisors, gambling operation managers and assistant managers, managers or supervisors of security employees, or any other natural person designated as a key employee by the department for reasons consistent with the policies of this chapter.

(x) "Key employee license" means a state license authorizing the holder to be employed as a key employee.

(y) "License" means a gambling license or key employee license.

(z) "Licensed gambling establishment" means the gambling premises encompassed by a state gambling license.

(aa) "Limited partnership" means a partnership formed by two or more persons having as members one or more general partners and one or more limited partners.

(ab) "Limited partnership interest" means the right of a general or limited partner to any of the following:

(1) To receive from a limited partnership any of the following:

(A) A share of the revenue.

(B) Any other compensation by way of income.

(C) A return of any or all of his or her contribution to capital of the limited partnership.

(2) To exercise any of the rights provided under state law.

(ac) "Owner licensee" means an owner of a gambling enterprise who holds a state gambling license.

(ad) "Person," unless otherwise indicated, includes a natural person, corporation, partnership, limited partnership, trust, joint venture, association, or any other business organization.

(ae) "Player" means a patron of a gambling establishment who participates in a controlled game.

(af) "Player-dealer" and "controlled game featuring a player-dealer position" refer to a position in a controlled game, as defined by the approved rules for that game, in which seated player participants are afforded the temporary opportunity to wager against multiple players at the same table, provided that this position is rotated amongst the other seated players in the game.

(ag) "Publicly traded racing association" means a corporation licensed to conduct horse racing and simulcast wagering pursuant to Chapter 4 (commencing with Section 19400) whose stock is publicly traded.

(ah) "Qualified racing association" means a corporation licensed to conduct horse racing and simulcast wagering pursuant to Chapter 4 (commencing with Section 19400) that is a wholly owned subsidiary of a corporation whose stock is publicly traded.

(ai) "Renewal license" means the license issued to the holder of an initial license that authorizes the license to continue beyond the expiration date of the initial license.

(aj) "Work permit" means any card, certificate, or permit issued by the commission, or by a county, city, or city and county, whether denominated as a work permit, registration card, or otherwise, authorizing the holder to be employed as a gambling enterprise employee or to serve as an independent agent. A document issued by any governmental authority for any employment other than gambling is not a valid work permit for the purposes of this chapter.

SEC. 3. Section 19851 of the Business and Professions Code is amended to read:

19851. (a) The owner of a gambling enterprise shall apply for and obtain a state gambling license.

(b) Other persons who also obtain a state gambling license, or key employee license, as required by this chapter, shall not receive a separate license certificate, but the license of every such person shall be endorsed on the license that is issued to the owner of the gambling enterprise.

(c) Notwithstanding subdivision (b), this section shall not apply to key employee licenses issued on or after July 1, 2008, or the effective date of the process established pursuant to subdivision (d) of Section 19854 to make key employee licenses personal and portable, whichever is sooner.

SEC. 4. Section 19853 of the Business and Professions Code, as amended by Section 17 of Chapter 176 of the Statutes of 2007, is amended to read:

19853. (a) The commission, by regulation or order, may require that the following persons register with the commission, apply for a finding of suitability as defined in subdivision (i) of Section 19805, or apply for a gambling license:

(1) Any person who furnishes any services or any property to a gambling enterprise under any arrangement whereby that person receives payments based on earnings, profits, or receipts from controlled gambling.

(2) Any person who owns an interest in the premises of a licensed gambling establishment or in real property used by a licensed gambling establishment.

(3) Any person who does business on the premises of a licensed gambling establishment.

(4) Any person who is an independent agent of, or does business with, a gambling enterprise as a ticket purveyor, a tour operator, the operator of a bus program, or the operator of any other type of travel program or promotion operated with respect to a licensed gambling establishment.

(5) Any person who provides any goods or services to a gambling enterprise for compensation that the commission finds to be grossly disproportionate to the value of the goods or services provided.

(6) Every person who, in the judgment of the commission, has the power to exercise a significant influence over the gambling operation.

(b) The department may conduct any investigation it deems necessary to determine whether a publicly traded corporation is, or has, engaged in activities specified in paragraph (2), (3), or (4) of subdivision (a), and shall report its findings to the commission. If a publicly traded corporation is engaged in activities described in paragraph (2), (3), or (4) of subdivision (a), the commission may require the corporation and the following other persons to apply for and obtain a license or finding of suitability:

(1) Any officer or director.

(2) Any owner, other than an institutional investor, of 5 percent or more of the outstanding shares of the corporation.

SEC. 5. Section 19854 of the Business and Professions Code is amended to read:

19854. (a) Every key employee shall apply for and obtain a key employee license.

(b) No person may be issued a key employee license unless the person would qualify for a state gambling license.

(c) A key employee license shall entitle the holder to work as a key employee in any key employee position at any gambling establishment, provided that the key employee terminates employment with one gambling establishment before commencing work for another.

(d) The commission shall establish a program for portable personal licenses for key employees, as well as a process by which valid key employee licenses then in effect shall be converted to personal portable licenses. The commission may, as part of that process, establish a fee to be paid by a key employee when seeking a personal portable license. The commission shall seek to implement the requirements imposed by this subdivision on or before July 1, 2008.

SEC. 6. Section 19867 of the Business and Professions Code, as amended by Section 22 of Chapter 176 of the Statutes of 2007, is amended to read:

19867. (a) An application for a license or a determination of suitability shall be accompanied by the deposit of a sum of money that, in the judgment of the chief, will be adequate to pay the anticipated costs and charges incurred in the investigation and processing of the application. The chief shall adopt a schedule of costs and charges of investigation for use as guidelines in fixing the amount of any required deposit under this section. The schedule shall distinguish between initial and renewal licenses with respect to costs and charges.

(b) During an investigation, the chief may require an applicant to deposit any additional sums as are required by the department to pay final costs and charges of the investigation.

(c) Any money received from an applicant in excess of the costs and charges incurred in the investigation or the processing of the application shall be refunded pursuant to regulations adopted by the department. At the conclusion of the investigation, the chief shall provide the applicant a written, itemized accounting of the costs and charges thereby incurred.

SEC. 7. Section 19876 of the Business and Professions Code is amended to read:

19876. (a) Subject to the power of the commission to deny, revoke, suspend, condition, or limit any license, as provided in this chapter, a license shall be renewed upon application for renewal and payment of state gambling fees as required by statute or regulation. Licenses renewed on or before July 31, 2008, shall be for the renewal period in effect at the time of the renewal but shall not expire any sooner than 15 months after the approval of the renewal application. Licenses renewed on or after August 1, 2008, shall expire 24 months after the date of the approval of the renewal application or after the expiration of the prior license, whichever is later.

(b) An application for renewal of a gambling license shall be filed by the owner licensee or key employee with the commission no later than 120 calendar days prior to the expiration of the current license. The commission shall act upon any application for renewal prior to the date of expiration of the current license. Upon renewal of any owner license, the commission shall issue an appropriate renewal certificate or validating device or sticker.

(c) Unless the commission determines otherwise, renewal of an owner's gambling license shall be deemed to effectuate the renewal of every other gambling license endorsed thereon.

(d) In addition to the penalties provided by law, any owner licensee who deals, operates, carries on, conducts, maintains, or exposes for play

any gambling game after the expiration date of the gambling license is liable to the state for all license fees and penalties that would have been due upon renewal.

(e) If an owner licensee fails to renew the gambling license as provided in this chapter, the commission may order the immediate closure of the premises and a cessation of all gambling activity therein until the license is renewed.

SEC. 8. Section 19951 of the Business and Professions Code, as amended by Section 43 of Chapter 176 of the Statutes of 2007, is amended to read:

19951. (a) Every application for a license or approval shall be accompanied by a nonrefundable fee, the amount of which shall be adopted by regulation on or before January 1, 2009. The adopted fee shall not exceed one thousand two hundred dollars ($1,200). Prior to adoption of the regulation, the nonrefundable application fee shall be five hundred dollars ($500).

(b) (1) Any fee paid pursuant to this section, including all licenses issued to key employees and other persons whose names are endorsed upon the license, shall be assessed against the gambling license issued to the owner of the gambling establishment. This paragraph shall not apply to key employee licenses issued on and after January 1, 2009, or the implementation of regulations establishing a personal key employee license adopted pursuant to Section 19854, whichever is sooner.

(2) (A) The fee for initial issuance of a state gambling license shall be an amount determined by the commission in accordance with regulations adopted pursuant to this chapter.

(B) The fee for the renewal of a state gambling license shall be determined pursuant to the schedule in subdivision (c) or the schedule in subdivision (d), whichever amount is greater.

(C) The holder of a provisional license shall pay an annual fee pursuant to the schedule in subdivision (c).

(c) The schedule based on the number of tables is as follows:

(1) For a license authorizing one to five tables, inclusive, at which games are played, three hundred dollars ($300) for each table.

(2) For a license authorizing six to eight tables, inclusive, at which games are played, five hundred fifty dollars ($550) for each table.

(3) For a license authorizing 9 to 14 tables, inclusive, at which games are played, one thousand three hundred dollars ($1,300) for each table.

(4) For a license authorizing 15 to 25 tables, inclusive, at which games are played, two thousand seven hundred dollars ($2,700) for each table.

(5) For a license authorizing 26 to 70 tables, inclusive, at which games are played, four thousand dollars ($4,000) for each table.

(6) For a license authorizing 71 or more tables at which games are played, four thousand seven hundred dollars ($4,700) for each table.

(d) Without regard to the number of tables at which games may be played pursuant to a gambling license, if, at any time of any license renewal, or when a licensee is required to pay the fee described in subparagraph (C) of paragraph (2) of subdivision (b) it is determined that the gross revenues of an owner licensee during the licensee's previous fiscal year fell within the following ranges, the annual fee shall be as follows:

(1) For a gross revenue of two hundred thousand dollars ($200,000) to four hundred ninety-nine thousand nine hundred ninety-nine dollars ($499,999), inclusive, the amount specified by the department pursuant to paragraph (2) of subdivision (c).

(2) For a gross revenue of five hundred thousand dollars ($500,000) to one million nine hundred ninety-nine thousand nine hundred ninety-nine dollars ($1,999,999), inclusive, the amount specified by the department pursuant to paragraph (3) of subdivision (c).

(3) For a gross revenue of two million dollars ($2,000,000) to nine million nine hundred ninety-nine thousand nine hundred ninety-nine dollars ($9,999,999), inclusive, the amount specified by the department pursuant to paragraph (4) of subdivision (c).

(4) For a gross revenue of ten million dollars ($10,000,000) to twenty-nine million nine hundred ninety-nine thousand nine hundred ninety-nine dollars ($29,999,999), the amount specified by the department pursuant to paragraph (5) of subdivision (c).

(5) For a gross revenue of thirty million dollars ($30,000,000) or more, the amount specified by the department pursuant to paragraph (6) of subdivision (c).

(e) The commission may provide for payment of the annual gambling license fee on an annual or installment basis.

(f) For the purposes of this section, each table at which a game is played constitutes a single game table.

(g) It is the intent of the Legislature that the fees paid pursuant to this section are sufficient to enable the department and the commission to fully carry out their duties and responsibilities under this chapter.

SEC. 9. Section 336.5 is added to the Penal Code, to read:

336.5. Gaming chips may be used on the gaming floor by a patron of a gambling establishment, as defined in subdivision (m) of Section 19805 of the Business and Professions Code, to pay for food and beverage items that are served at the table.

CHAPTER 439

An act to amend Section 3344.1 of the Civil Code, relating to deceased personalities.

[Approved by Governor October 10, 2007. Filed with Secretary of State October 10, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 3344.1 of the Civil Code is amended to read:

3344.1. (a) (1) Any person who uses a deceased personality's name, voice, signature, photograph, or likeness, in any manner, on or in products, merchandise, or goods, or for purposes of advertising or selling, or soliciting purchases of, products, merchandise, goods, or services, without prior consent from the person or persons specified in subdivision (c), shall be liable for any damages sustained by the person or persons injured as a result thereof. In addition, in any action brought under this section, the person who violated the section shall be liable to the injured party or parties in an amount equal to the greater of seven hundred fifty dollars ($750) or the actual damages suffered by the injured party or parties, as a result of the unauthorized use, and any profits from the unauthorized use that are attributable to the use and are not taken into account in computing the actual damages. In establishing these profits, the injured party or parties shall be required to present proof only of the gross revenue attributable to the use and the person who violated the section is required to prove his or her deductible expenses. Punitive damages may also be awarded to the injured party or parties. The prevailing party or parties in any action under this section shall also be entitled to attorney's fees and costs.

(2) For purposes of this subdivision, a play, book, magazine, newspaper, musical composition, audiovisual work, radio or television program, single and original work of art, work of political or newsworthy value, or an advertisement or commercial announcement for any of these works, shall not be considered a product, article of merchandise, good, or service if it is fictional or nonfictional entertainment, or a dramatic, literary, or musical work.

(3) If a work that is protected under paragraph (2) includes within it a use in connection with a product, article of merchandise, good, or service, this use shall not be exempt under this subdivision, notwithstanding the unprotected use's inclusion in a work otherwise exempt under this subdivision, if the claimant proves that this use is so directly connected with a product, article of merchandise, good, or service

as to constitute an act of advertising, selling, or soliciting purchases of that product, article of merchandise, good, or service by the deceased personality without prior consent from the person or persons specified in subdivision (c).

(b) The rights recognized under this section are property rights, freely transferable or descendible, in whole or in part, by contract or by means of any trust or any other testamentary instrument, executed before or after January 1, 1985. The rights recognized under this section shall be deemed to have existed at the time of death of any deceased personality who died prior to January 1, 1985, and, except as provided in subdivision (o), shall vest in the persons entitled to these property rights under the testamentary instrument of the deceased personality effective as of the date of his or her death. In the absence of an express transfer in a testamentary instrument of the deceased personality's rights in his or her name, voice, signature, photograph, or likeness, a provision in the testamentary instrument that provides for the disposition of the residue of the deceased personality's assets shall be effective to transfer the rights recognized under this section in accordance with the terms of that provision. The rights established by this section shall also be freely transferable or descendible by contract, trust, or any other testamentary instrument by any subsequent owner of the deceased personality's rights as recognized by this section. Nothing in this section shall be construed to render invalid or unenforceable any contract entered into by a deceased personality during his or her lifetime by which the deceased personality assigned the rights, in whole or in part, to use his or her name, voice, signature, photograph or likeness, regardless of whether the contract was entered into before or after January 1, 1985.

(c) The consent required by this section shall be exercisable by the person or persons to whom the right of consent, or portion thereof, has been transferred in accordance with subdivision (b), or if no transfer has occurred, then by the person or persons to whom the right of consent, or portion thereof, has passed in accordance with subdivision (d).

(d) Subject to subdivisions (b) and (c), after the death of any person, the rights under this section shall belong to the following person or persons and may be exercised, on behalf of and for the benefit of all of those persons, by those persons who, in the aggregate, are entitled to more than a one-half interest in the rights:

(1) The entire interest in those rights belong to the surviving spouse of the deceased personality unless there are any surviving children or grandchildren of the deceased personality, in which case one-half of the entire interest in those rights belong to the surviving spouse.

(2) The entire interest in those rights belong to the surviving children of the deceased personality and to the surviving children of any dead

child of the deceased personality unless the deceased personality has a surviving spouse, in which case the ownership of a one-half interest in rights is divided among the surviving children and grandchildren.

(3) If there is no surviving spouse, and no surviving children or grandchildren, then the entire interest in those rights belong to the surviving parent or parents of the deceased personality.

(4) The rights of the deceased personality's children and grandchildren are in all cases divided among them and exercisable in the manner provided in Section 240 of the Probate Code according to the number of the deceased personality's children represented. The share of the children of a dead child of a deceased personality can be exercised only by the action of a majority of them.

(e) If any deceased personality does not transfer his or her rights under this section by contract, or by means of a trust or testamentary instrument, and there are no surviving persons as described in subdivision (d), then the rights set forth in subdivision (a) shall terminate.

(f) (1) A successor in interest to the rights of a deceased personality under this section or a licensee thereof may not recover damages for a use prohibited by this section that occurs before the successor in interest or licensee registers a claim of the rights under paragraph (2).

(2) Any person claiming to be a successor in interest to the rights of a deceased personality under this section or a licensee thereof may register that claim with the Secretary of State on a form prescribed by the Secretary of State and upon payment of a fee as set forth in subdivision (d) of Section 12195 of the Government Code. The form shall be verified and shall include the name and date of death of the deceased personality, the name and address of the claimant, the basis of the claim, and the rights claimed.

(3) Upon receipt and after filing of any document under this section, the Secretary of State shall post the document along with the entire registry of persons claiming to be a successor in interest to the rights of a deceased personality or a registered licensee under this section upon the World Wide Web, also known as the Internet. The Secretary of State may microfilm or reproduce by other techniques any of the filings or documents and destroy the original filing or document. The microfilm or other reproduction of any document under the provisions of this section shall be admissible in any court of law. The microfilm or other reproduction of any document may be destroyed by the Secretary of State 70 years after the death of the personality named therein.

(4) Claims registered under this subdivision shall be public records.

(g) No action shall be brought under this section by reason of any use of a deceased personality's name, voice, signature, photograph, or

likeness occurring after the expiration of 70 years after the death of the deceased personality.

(h) As used in this section, "deceased personality" means any natural person whose name, voice, signature, photograph, or likeness has commercial value at the time of his or her death, whether or not during the lifetime of that natural person the person used his or her name, voice, signature, photograph, or likeness on or in products, merchandise or goods, or for purposes of advertising or selling, or solicitation of purchase of, products, merchandise, goods, or services. A "deceased personality" shall include, without limitation, any such natural person who has died within 70 years prior to January 1, 1985.

(i) As used in this section, "photograph" means any photograph or photographic reproduction, still or moving, or any video tape or live television transmission, of any person, such that the deceased personality is readily identifiable. A deceased personality shall be deemed to be readily identifiable from a photograph when one who views the photograph with the naked eye can reasonably determine who the person depicted in the photograph is.

(j) For purposes of this section, a use of a name, voice, signature, photograph, or likeness in connection with any news, public affairs, or sports broadcast or account, or any political campaign, shall not constitute a use for which consent is required under subdivision (a).

(k) The use of a name, voice, signature, photograph, or likeness in a commercial medium shall not constitute a use for which consent is required under subdivision (a) solely because the material containing the use is commercially sponsored or contains paid advertising. Rather, it shall be a question of fact whether or not the use of the deceased personality's name, voice, signature, photograph, or likeness was so directly connected with the commercial sponsorship or with the paid advertising as to constitute a use for which consent is required under subdivision (a).

(*l*) Nothing in this section shall apply to the owners or employees of any medium used for advertising, including, but not limited to, newspapers, magazines, radio and television networks and stations, cable television systems, billboards, and transit ads, by whom any advertisement or solicitation in violation of this section is published or disseminated, unless it is established that the owners or employees had knowledge of the unauthorized use of the deceased personality's name, voice, signature, photograph, or likeness as prohibited by this section.

(m) The remedies provided for in this section are cumulative and shall be in addition to any others provided for by law.

(n) This section shall apply to the adjudication of liability and the imposition of any damages or other remedies in cases in which the

liability, damages, and other remedies arise from acts occurring directly in this state. For purposes of this section, acts giving rise to liability shall be limited to the use, on or in products, merchandise, goods, or services, or the advertising or selling, or soliciting purchases of, products, merchandise, goods, or services prohibited by this section.

(o) Notwithstanding any provision of this section to the contrary, if an action was taken prior to May 1, 2007, to exercise rights recognized under this section relating to a deceased personality who died prior to January 1, 1985, by a person described in subdivision (d), other than a person who was disinherited by the deceased personality in a testamentary instrument, and the exercise of those rights was not challenged successfully in a court action by a person described in subdivision (b), that exercise shall not be affected by subdivision (b). In such a case, the rights that would otherwise vest in one or more persons described in subdivision (b) shall vest solely in the person or persons described in subdivision (d), other than a person disinherited by the deceased personality in a testamentary instrument, for all future purposes.

(p) The rights recognized by this section are expressly made retroactive, including to those deceased personalities who died before January 1, 1985.

SEC. 2. It is the intent of the Legislature to abrogate the summary judgment orders entered in The Milton H. Greene Archives, Inc. v. CMG Worldwide, Inc., United States District Court, Central District of California, Case No. CV 05-2200 MMM (MCx), filed May 14, 2007, and in Shaw Family Archives Ltd. v. CMG Worldwide, Inc., United States District Court, Southern District of New York, Case No. 05 Civ. 3939 (CM), dated May 2, 2007.

CHAPTER 440

An act to amend Section 35401.7 of the Vehicle Code, relating to vehicles.

[Approved by Governor October 10, 2007. Filed with Secretary of State October 10, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 35401.7 of the Vehicle Code is amended to read:

35401.7. (a) The limitations of access specified in subdivision (d) of Section 35401.5 do not apply to licensed carriers of livestock when

those carriers are directly en route to or from a point of loading or unloading of livestock on those portions of State Highway Route 101 located in the Counties of Del Norte, Humboldt, and Mendocino from its junction with State Highway Route 1 near Leggett north to the Oregon border, if the travel is necessary and incidental to the shipment of the livestock.

(b) The exemption allowed under this section does not apply unless all of the following conditions are met:

(1) The length of the truck tractor, in combination with the semitrailer used to transport the livestock, does not exceed a total of 70 feet.

(2) The distance from the kingpin to the rearmost axle of the semitrailer does not exceed 43 feet.

(3) The length of the semitrailer does not exceed a total of 48 feet.

(c) The exemption allowed under this section does not apply to travel conducted on the day prior to, or on the day of, any federally recognized holiday.

(d) The Department of the California Highway Patrol, in consultation with the Department of Transportation and in accordance with recommendations from the Department of the California Highway Patrol's study issued on March 20, 2006, of the effect of the statutory exemption, shall continue the comprehensive study of the effect that the exemption provided by this section has on the public safety during the extended effective period of the exemption, and make recommendations on future exemptions, including the creation of a permitting system for cattle truck and trailer combinations meeting applicable provisions of the federal Surface Transportation Assistance Act of 1982 (Public Law 97-424), and appropriate safety improvements. Notwithstanding Section 7550.5 of the Government Code, the Department of the California Highway Patrol shall report the findings of this additional study and recommendations to the Governor and the Legislature on or before January 1, 2011.

(e) This section shall remain in effect only until January 1, 2012, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2012, deletes or extends that date.

(f) (1) If prior to January 1, 2012, the Director of Transportation determines that the only adjustment to State Highway Route 101 possible to accommodate the truck sizes allowed to travel on portions of State Highway Route 101, pursuant to subdivisions (a) and (b) is the removal of any tree that has a diameter of 42 inches or greater, measured outside the bark, at 12 inches above ground on the side adjacent to the highest ground level, the director shall notify the Secretary of State of that determination.

(2) If prior to January 1, 2012, the Director of Transportation determines that safety improvements to the portion of State Highway Route 101 described in subdivision (a) have resulted in the reclassification of the entire segment as a terminal access route pursuant to subdivision (d) of Section 35401.5, the director shall notify the Secretary of State of that determination.

(3) The notice required under paragraph (1) or (2) shall state that it is being made pursuant to this section.

(4) This section is repealed on the date the Secretary of State receives either of the notices described in this subdivision.

CHAPTER 441

An act to amend Section 4565 of, and to add Section 17523.5 to, the Family Code, relating to family law.

[Approved by Governor October 10, 2007. Filed with Secretary of State October 10, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 4565 of the Family Code is amended to read:

4565. (a) Before entry of a child support order pursuant to Section 4560, the court shall give the child support obligor reasonable notice and opportunity to file an application to reduce or eliminate the child support security deposit on either of the following grounds:

(1) The obligor has provided adequate alternative equivalent security to assure timely payment of the amount required by Section 4560.

(2) The obligor is unable, without undue financial hardship, to pay the support deposit required by Section 4560.

(b) The application shall be supported by all reasonable and necessary financial and other information required by the court to establish the existence of either ground for relief.

(c) After the filing of an application, the child support obligor shall also serve the application and supporting financial and other information submitted pursuant to subdivision (b) upon the child support obligee and any other party to the proceeding.

SEC. 2. Section 17523.5 is added to the Family Code, to read:

17523.5. (a) (1) Notwithstanding any other law, in connection with the duty of the department and the local child support agency to promptly and effectively collect and enforce child support obligations under Title IV-D, the transmission, filing, and recording of a lien record by

departmental and local child support agency staff that arises pursuant to subdivision (a) of Section 4506 of this code or Section 697.320 of the Code of Civil Procedure against the real property of a support obligor in the form of a digital or a digitized electronic record shall be permitted and governed only by this section.

(2) A facsimile signature that complies with the requirements of paragraph (2) of subdivision (b) of Section 27201 of the Government Code shall be accepted on any document relating to a lien that is filed or recorded pursuant to this section.

(3) Pursuant to Chapter 4 (commencing with Section 10080) of Part 1 of Division 9 of the Welfare and Institutions Code, the department and the local child support agency may use the California Child Support Automation System to transmit, file, and record a lien record under this section.

(b) Nothing in this section shall be construed to require a county recorder to establish an electronic recording delivery system or to enter into a contract with an entity to implement this section.

(c) For purposes of this section, the following terms have the following meanings:

(1) "Digital electronic record" means a record containing information that is created, generated, sent, communicated, received, or stored by electronic means, but not created in original paper form.

(2) "Digitized electronic record" means a scanned image of the original paper document.

CHAPTER 442

An act to add and repeal Chapter 8 (commencing with Section 1965) of Division 2.5 of the Streets and Highways Code, and to amend Sections 21251 and 21260 of the Vehicle Code, relating to neighborhood electric vehicles.

[Approved by Governor October 10, 2007. Filed with Secretary of State October 10, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Chapter 8 (commencing with Section 1965) is added to Division 2.5 of the Streets and Highways Code, to read:

Chapter 8. Neighborhood Electric Vehicle Transportation Plan for Ranch Plan Planned Community in Orange County

1965. It is the intent of the Legislature, in enacting this chapter, to authorize the County of Orange to establish a neighborhood electric vehicle (NEV) transportation plan for the Ranch Plan Planned Community in the county. The purpose of this NEV transportation plan is to further the community's vision of creating a sustainable development that reduces gasoline demand and vehicle emissions by offering a cleaner, more economical means of local transportation within the plan area. It is the further intent of the Legislature that this NEV transportation plan be designed and developed to best serve the functional travel needs of the plan area, to have the physical safety of the NEV driver's person and property as a major planning component, and to have the capacity to accommodate NEV drivers of every legal age and range of skills.

1965.1. The following definitions apply to this chapter:

(a) "Plan area" means the Ranch Plan Planned Community project area and all streets located within the project area.

(b) "Neighborhood electric vehicle" or "NEV" means a low-speed vehicle as defined by Section 385.5 of the Vehicle Code.

(c) "NEV lanes" means all publicly or privately owned facilities that provide for NEV travel including roadways designated by signs or permanent markings which are shared with pedestrians, bicyclists, and other motorists in the plan area.

(d) "Ranch Plan Planned Community" means the comprehensive land use, conservation, and development program initially approved by the Orange County Board of Supervisors on November 8, 2004, and covering the remaining 22,815 acres of the historic Rancho Mission Viejo located in southeastern Orange County.

(e) "Transportation planning agency" means the Orange County Transportation Authority.

1965.2. (a) The County of Orange may, by ordinance or resolution, adopt a NEV transportation plan for the Ranch Plan Planned Community.

(b) The transportation plan shall have received a prior review and the comments of the transportation planning agency and any agency having traffic law enforcement responsibilities in the County of Orange.

(c) The transportation plan may include the use of a state highway, or any crossing of the highway, subject to the approval of the Department of Transportation.

1965.3. The transportation plan shall include, but is not limited to, all of the following elements:

(a) Route selection, which includes a finding that the route will accommodate NEVs without an adverse impact upon traffic safety, and

will consider, among other things, the travel needs of commuters and other users.

(b) Transportation interfacing, which shall include, but not be limited to, coordination with other modes of transportation so that a NEV driver may employ multiple modes of transportation in reaching a destination in the plan area.

(c) Provision for NEV related facilities including, but not limited to, special access points and NEV crossings.

(d) Provisions for parking facilities, including, but not limited to, community commercial centers, golf courses, public areas, parks, and other destination locations.

(e) Provisions for special paving, road markings, signage and striping for NEV travel lanes, road crossings, parking, and circulation.

(f) Provisions for NEV electrical charging stations.

(g) NEV lanes for the purposes of the transportation plan shall be classified as follows:

(1) Class I NEV routes provide for a completely separate right-of-way for the use of NEVs.

(2) Class II NEV routes provide for a separate striped lane adjacent to roadways with speed limits of 55 miles per hour or less.

(3) Class III NEV routes provide for shared use by NEVs with conventional vehicle traffic on streets with a speed limit of 25 miles per hour or less.

1965.4. If the County of Orange adopts a NEV transportation plan for the Ranch Plan Planned Community, it shall do both of the following:

(a) Establish minimum general design criteria for the development, planning, and construction of separated NEV lanes, including, but not limited to, the design speed of the facility, the space requirements of the NEV, and roadway design criteria.

(b) In cooperation with the department, establish uniform specifications and symbols for signs, markers, and traffic control devices to control NEV traffic; to warn of dangerous conditions, obstacles, or hazards; to designate the right-of-way as between NEVs, other vehicles, and bicycles; to state the nature and destination of the NEV lane; and to warn pedestrians, bicyclists, and motorists of the presence of NEV traffic.

1965.5. If the County of Orange adopts a NEV transportation plan for the Ranch Plan Planned Community, it shall also adopt all of the following as part of the plan:

(a) NEVs eligible to use NEV lanes shall meet the safety requirements for low-speed vehicles as set forth in Section 571.500 of Title 49 of the Code of Federal Regulations.

(b) Minimum safety criteria for NEV operators, including, but not limited to, requirements relating to NEV maintenance and NEV safety.

Operators shall be required to possess a valid California driver's license and to comply with the financial responsibility requirements established pursuant to Chapter 1 (commencing with Section 16000) of Division 7 of the Vehicle Code.

(c) (1) Restrictions limiting the operation of NEVs to separated NEV lanes on those roadways identified in the transportation plan, and allowing only those NEVs and golf carts that meet the safety equipment requirements specified in the plan to be operated on separated NEV lanes of approved roadways in the plan area.

(2) Any person operating a NEV in the plan area in violation of this subdivision is guilty of an infraction punishable by a fine not exceeding one hundred dollars ($100).

1965.6. (a) If the County of Orange adopts a NEV transportation plan for the Ranch Plan Planned Community pursuant to this chapter, the county shall submit a report to the Legislature on or before November 1, 2011, in consultation with the Department of Transportation, the Department of the California Highway Patrol, and local law enforcement agencies.

(b) The report shall include all of the following:

(1) A description of the NEV transportation plan and its elements that have been authorized up to that time.

(2) An evaluation of the effectiveness of the NEV transportation plan, including its impact on traffic flows and safety.

(3) A recommendation as to whether this chapter should be terminated, continued in existence and applicable solely to the Ranch Plan Planned Community, or expanded statewide.

1965.7. This chapter shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

SEC. 2. Section 21251 of the Vehicle Code is amended to read:

21251. Except as provided in Chapter 7 (commencing with Section 1963) and Chapter 8 (commencing with Section 1965) of Division 2 of the Streets and Highways Code, and Sections 4023, 21115, and 21115.1, a low-speed vehicle is subject to all the provisions applicable to a motor vehicle, and the driver of a low-speed vehicle is subject to all the provisions applicable to the driver of a motor vehicle or other vehicle, when applicable, by this code or any other code, with the exception of those provisions which, by their very nature, can have no application.

SEC. 3. Section 21260 of the Vehicle Code is amended to read:

21260. (a) Except as provided in paragraph (1) of subdivision (b), or in an area where a neighborhood electric vehicle transportation plan has been adopted pursuant to Chapter 7 (commencing with Section 1963) or Chapter 8 (commencing with Section 1965) of Division 2.5 of the

Streets and Highways Code, the operator of a low-speed vehicle shall not operate the vehicle on any roadway with a speed limit in excess of 35 miles per hour.

(b) (1) The operator of a low-speed vehicle may cross a roadway with a speed limit in excess of 35 miles per hour if the crossing begins and ends on a roadway with a speed limit of 35 miles per hour or less and occurs at an intersection of approximately 90 degrees.

(2) Notwithstanding paragraph (1), the operator of a low-speed vehicle shall not traverse an uncontrolled intersection with any state highway unless that intersection has been approved and authorized by the agency having primary traffic enforcement responsibilities for that crossing by a low-speed vehicle.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CHAPTER 443

An act to amend Section 19596.2 of the Business and Professions Code, relating to horse racing, and making an appropriation therefor.

[Approved by Governor October 10, 2007. Filed with Secretary of State October 10, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 19596.2 of the Business and Professions Code is amended to read:

19596.2. (a) Notwithstanding any other provision of law and except as provided in Section 19596.4, a thoroughbred racing association or fair may distribute the audiovisual signal and accept wagers on the results of out-of-state thoroughbred races conducted in the United States during the calendar period the association or fair is conducting a race meeting, including days on which there is no live racing being conducted by the association or fair, without the consent of the organization that represents horsemen participating in the race meeting and without regard to the amount of purses, provided that the total number of thoroughbred races

on which wagers are accepted statewide in any given year does not exceed the total number of thoroughbred races on which wagers were accepted in 1998. Further, the total number of thoroughbred races imported by associations or fairs on a statewide basis under this section shall not exceed 23 per day on days when live thoroughbred or fair racing is being conducted in the state. The limitation of 23 imported races per day does not apply to any of the following:

(1) Races imported for wagering purposes pursuant to subdivision (c).

(2) Races imported that are part of the race card of the Kentucky Derby, the Kentucky Oaks, the Preakness Stakes, the Belmont Stakes, the Jockey Club Gold Cup, the Breeders' Cup, the Dubai Cup, or the Haskell Invitational.

(3) Races imported into the northern zone when there is no live thoroughbred or fair racing being conducted in the northern zone.

(4) Races imported into the combined central and southern zones when there is no live thoroughbred or fair racing being conducted in the combined central and southern zones.

(b) Any thoroughbred association or fair accepting wagers pursuant to subdivision (a) shall conduct the wagering in accordance with the applicable provisions of Sections 19601, 19616, 19616.1, and 19616.2.

(c) No thoroughbred association or fair may accept wagers pursuant to this section on out-of-state races commencing after 7 p.m., Pacific standard time, without the consent of the harness or quarter horse racing association that is then conducting a live racing meeting in Orange or Sacramento Counties.

CHAPTER 444

An act to amend Sections 19596.2, 19605.73, and 19613.05 of the Business and Professions Code, relating to horse racing, and making an appropriation therefor.

[Approved by Governor October 10, 2007. Filed with Secretary of State October 10, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 19596.2 of the Business and Professions Code is amended to read:

19596.2. (a) Notwithstanding any other provision of law and except as provided in Section 19596.4, a thoroughbred racing association or

fair may distribute the audiovisual signal and accept wagers on the results of out-of-state thoroughbred races conducted in the United States during the calendar period the association or fair is conducting a race meeting, including days on which there is no live racing being conducted by the association or fair, without the consent of the organization that represents horsemen participating in the race meeting and without regard to the amount of purses, provided that the total number of thoroughbred races on which wagers are accepted statewide in any given year does not exceed the total number of thoroughbred races on which wagers were accepted in 1998. Further, the total number of thoroughbred races imported by associations or fairs on a statewide basis under this section shall not exceed 23 per day on days when live thoroughbred or fair racing is being conducted in the state. The limitation of 23 imported races per day does not apply to any of the following:

(1) Races imported for wagering purposes pursuant to subdivision (c).

(2) Races imported that are part of the race card of the Kentucky Derby, the Kentucky Oaks, the Preakness Stakes, the Belmont Stakes, the Jockey Club Gold Cup, Travers Stakes, the Breeders' Cup, or the Haskell Invitational.

(3) Races imported into the northern zone when there is no live thoroughbred or fair racing being conducted in the northern zone.

(4) Races imported into the combined central and southern zones when there is no live thoroughbred or fair racing being conducted in the combined central and southern zones.

(b) Any thoroughbred association or fair accepting wagers pursuant to subdivision (a) shall conduct the wagering in accordance with the applicable provisions of Sections 19601, 19616, 19616.1, and 19616.2.

(c) No thoroughbred association or fair may accept wagers pursuant to this section on out-of-state races commencing after 7 p.m., Pacific standard time, without the consent of the harness or quarter horse racing association that is then conducting a live racing meeting in Orange or Sacramento Counties.

SEC. 1.5. Section 19596.2 of the Business and Professions Code is amended to read:

19596.2. (a) Notwithstanding any other provision of law and except as provided in Section 19596.4, a thoroughbred racing association or fair may distribute the audiovisual signal and accept wagers on the results of out-of-state thoroughbred races conducted in the United States during the calendar period the association or fair is conducting a race meeting, including days on which there is no live racing being conducted by the association or fair, without the consent of the organization that represents horsemen participating in the race meeting and without regard to the

amount of purses, provided that the total number of thoroughbred races on which wagers are accepted statewide in any given year does not exceed the total number of thoroughbred races on which wagers were accepted in 1998. Further, the total number of thoroughbred races imported by associations or fairs on a statewide basis under this section shall not exceed 23 per day on days when live thoroughbred or fair racing is being conducted in the state. The limitation of 23 imported races per day does not apply to any of the following:

(1) Races imported for wagering purposes pursuant to subdivision (c).

(2) Races imported that are part of the race card of the Kentucky Derby, the Kentucky Oaks, the Preakness Stakes, the Belmont Stakes, the Jockey Club Gold Cup, the Travers Stakes, the Breeders' Cup, the Dubai Cup, or the Haskell Invitational.

(3) Races imported into the northern zone when there is no live thoroughbred or fair racing being conducted in the northern zone.

(4) Races imported into the combined central and southern zones when there is no live thoroughbred or fair racing being conducted in the combined central and southern zones.

(b) Any thoroughbred association or fair accepting wagers pursuant to subdivision (a) shall conduct the wagering in accordance with the applicable provisions of Sections 19601, 19616, 19616.1, and 19616.2.

(c) No thoroughbred association or fair may accept wagers pursuant to this section on out-of-state races commencing after 7 p.m., Pacific standard time, without the consent of the harness or quarter horse racing association that is then conducting a live racing meeting in Orange or Sacramento Counties.

SEC. 2. Section 19605.73 of the Business and Professions Code is amended to read:

19605.73. (a) Racing associations, fairs, and the organization responsible for contracting with racing associations and fairs with respect to the conduct of racing meetings, may form a private, statewide marketing organization to market and promote thoroughbred and fair horse racing, and to obtain, provide, or defray the cost of workers' compensation coverage for stable employees and jockeys of thoroughbred trainers. The organization shall consist of the following members: two members, one from the northern zone and one from the combined central and southern zones, appointed by the thoroughbred racetracks; two members, one from the northern zone and one from the combined central and southern zones, appointed by the owners' organization responsible for contracting with associations and fairs with respect to the conduct of racing meetings; and two members, one from the northern zone and

one from the combined central and southern zones, appointed by the organization representing racing and satellite fairs.

(b) The marketing organization formed pursuant to subdivision (a) shall annually submit to the board a statewide marketing and promotion plan and a thoroughbred trainers' workers' compensation defrayal plan for thoroughbred and fair horse racing that encompasses all geographical zones in the state, and which includes the manner in which funds were expended in the implementation of the plan for the previous calendar year. The plan shall be implemented as determined by the organization. The organization shall receive input from all interested industry participants and may utilize outside consultants in developing the annual marketing plan.

(c) In addition to the distributions specified in subdivisions (a) and (b) of Section 19605.7, and in Sections 19605.71 and 19605.72, for thoroughbred and fair meetings only, from the amount that would normally be available for commissions and purses, an amount equal to 0.4 percent of the total amount handled by each satellite wagering facility shall be distributed to the statewide marketing organization formed pursuant to subdivision (a) for the promotion of thoroughbred and fair horse racing and to defray the cost of workers' compensation coverage for stable employees and jockeys of thoroughbred trainers. Not more than one-sixth of the total amount available annually pursuant to this subdivision shall be used to defray the cost of workers' compensation insurance. Any of the promotion funds that are not expended in the year in which they are collected may be expended in the following year. If promotion funds expended in any one year exceed the amount collected for that year, the funds expended in the following year shall be reduced by the excess amount.

(d) This section shall remain in effect only until January 1, 2011, and, as of that date, is repealed, unless a later enacted statute that is enacted before January 1, 2011, deletes or extends that date. Any moneys held by the organization shall, in the event this section is repealed, be distributed to the organization formed pursuant to Section 19608.2, for purposes of that section.

SEC. 3. Section 19613.05 of the Business and Professions Code is amended to read:

19613.05. (a) Any association, including a fair, that conducts thoroughbred racing shall pay to the owners' organization, contracting with the association with respect to the conduct of thoroughbred racing, an additional 1¾ percent of the portion required by Section 19613 for a national marketing program. These funds shall be used exclusively for the promotion of thoroughbred racing in conjunction with a national thoroughbred racing marketing program. Funds that may not be needed

for this effort shall be returned to the purse pool at the racing associations where these funds were raised in direct proportion to the amount in which they were initially raised. The owners' organization shall file a report with the board and the respective Committees on Governmental Organization of the Senate and Assembly, accounting for the receipt and expenditure of these funds on an annual basis. The board of directors of the owners' organization shall have the discretion to select the national marketing organization that shall be the recipient of these funds. If the board of directors of the owners' organization decides at any time not to contribute to the national marketing organization, notice shall be given promptly to the respective racing association or associations and the 1 ¾ percent deduction shall cease until the owners' organization decides otherwise.

(b) This section shall remain in effect only until January 1, 2011, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2011, deletes or extends that date.

SEC. 4. Section 1.5 of this bill incorporates amendments to Section 19596.2 of the Business and Professions Code proposed by both this bill and SB 379. It shall become effective only if (1) both bills are enacted and become effective on or before January 1, 2008, (2) each bill amends Section 19596.2 of the Business and Professions Code, and (3) this bill is enacted after SB 379, in which case Section 1 of this bill will not become operative.

CHAPTER 445

An act to amend Section 22963 of the Business and Professions Code, and to amend Section 118950 of the Health and Safety Code, relating to tobacco products.

[Approved by Governor October 10, 2007. Filed with Secretary of State October 10, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 22963 of the Business and Professions Code is amended to read:

22963. (a) The sale, distribution, or nonsale distribution of tobacco products directly or indirectly to any person under the age of 18 years through the United States Postal Service or through any other public or private postal or package delivery service at locations, including, but not limited to, public mailboxes and mailbox stores, is prohibited.

(b) Any person selling or distributing, or engaging in the nonsale distribution of, tobacco products directly to a consumer in the state through the United States Postal Service or by any other public or private postal or package delivery service, including orders placed by mail, telephone, facsimile transmission, or the Internet, shall comply with the following provisions:

(1) (A) Before enrolling a person as a customer, or distributing or selling, or engaging in the nonsale distribution of, the tobacco product through any of these means, the distributor or seller shall verify that the purchaser or recipient of the product is 18 years of age or older. The distributor or seller shall attempt to match the name, address, and date of birth provided by the customer to information contained in records in a database of individuals whose age has been verified to be 18 years or older by reference to an appropriate database of government records kept by the distributor, a direct marketing firm, or any other entity. In the case of a sale, the distributor or seller shall also verify that the billing address on the check or credit card offered for payment by the purchaser matches the address listed in the database.

(B) If the seller, distributor, or nonsale distributor, is unable to verify that the purchaser or recipient is 18 years of age or older pursuant to subparagraph (A), he or she shall require the customer or recipient to submit an age-verification kit consisting of an attestation signed by the customer or recipient that he or she is 18 years of age or older and a copy of a valid form of government identification. For the purposes of this section, a valid form of government identification includes a driver's license, state identification card, passport, an official naturalization or immigration document, such as an alien registration receipt card (commonly known as a "green card") or an immigrant visa, or military identification. In the case of a sale, the distributor or seller shall also verify that the billing address on the check or credit card provided by the consumer matches the address listed in the form of government identification.

(2) In the case of a sale, the distributor or seller shall impose a two-carton minimum on each order of cigarettes, and shall require payment for the purchase of any tobacco product to be made by personal check of the purchaser or the purchaser's credit card. No money order or cash payment shall be received or permitted. The distributor or seller shall submit to each credit card acquiring company with which it has credit card sales identification information in an appropriate form and format so that the words "tobacco product" may be printed in the purchaser's credit card statement when a purchase of a tobacco product is made by credit card payment.

(3) In the case of a sale, the distributor or seller shall make a telephone call after 5 p.m. to the purchaser confirming the order prior to shipping the tobacco products. The telephone call may be a person-to-person call or a recorded message. The distributor or seller is not required to speak directly with a person and may leave a message on an answering machine or by voice mail.

(4) The nonsale distributor shall deliver the tobacco product to the recipient's verified mailing address, or in the case of a sale, the seller or distributor shall deliver the tobacco product to the purchaser's verified billing address on the check or credit card used for payment. No delivery described under this section shall be permitted to any post office box.

(c) Notwithstanding subdivisions (a) and (b), if a seller, distributor, or nonsale distributor, complies with all of the requirements of this section and a minor obtains a tobacco product by any of the means described in subdivision (b), the seller, distributor, or nonsale distributor is not in violation of this section.

(d) For the purposes of the enforcement of this section pursuant to Section 22958, the acts of the United States Postal Service or other common carrier when engaged in the business of transporting and delivering packages for others, and the acts of a person, whether compensated or not, who transports or delivers a package for another person without any reason to know of the package's contents, are not unlawful and are not subject to civil penalties.

(e) (1) (A) For the purposes of this section, a "distributor" is any person or entity, within or outside the state, who agrees to distribute tobacco products to a customer or recipient within the state. The United States Postal Service or any other public or private postal or package delivery service are not distributors within the meaning of this section.

(B) A "nonsale distributor" is any person inside or outside of this state who, directly or indirectly, knowingly provides tobacco products to any person in this state as part of a nonsale transaction. "Nonsale distributor" includes the person or entity who provides the tobacco product for delivery and the person or entity who delivers the product to the recipient as part of a nonsale transaction.

(C) "Nonsale distribution" means to give smokeless tobacco or cigarettes to the general public at no cost, or at nominal cost, or to give coupons, coupon offers, gift certificates, gift cards, or other similar offers, or rebate offers for smokeless tobacco or cigarettes to the general public at no cost or at nominal cost. Distribution of tobacco products, coupons, coupon offers, gift certificates, gift cards, or other similar offers, or rebate offers in connection with the sale of another item, including tobacco products, cigarette lighters, magazines, or newspapers shall not constitute nonsale distribution.

(2) For the purpose of this section, a "seller" is any person or entity, within or outside the state, who agrees to sell tobacco products to a customer within the state. The United States Postal Service or any other public or private postal or package delivery service are not sellers within the meaning of this section.

(3) For the purpose of this section, a "carton" is a package or container that contains 200 cigarettes.

(f) A district attorney, city attorney, or the Attorney General may assess civil penalties against any person, firm, corporation, or other entity that violates this section, according to the following schedule:

(1) A civil penalty of not less than one thousand dollars ($1,000) and not more than two thousand dollars ($2,000) for the first violation.

(2) A civil penalty of not less than two thousand five hundred dollars ($2,500) and not more than three thousand five hundred dollars ($3,500) for the second violation.

(3) A civil penalty of not less than four thousand dollars ($4,000) and not more than five thousand dollars ($5,000) for the third violation within a five-year period.

(4) A civil penalty of not less than five thousand five hundred dollars ($5,500) and not more than six thousand five hundred dollars ($6,500) for the fourth violation within a five-year period.

(5) A civil penalty of ten thousand dollars ($10,000) for a fifth or subsequent violation within a five-year period.

SEC. 2. Section 118950 of the Health and Safety Code is amended to read:

118950. (a) The Legislature hereby finds and declares the following:

(1) Smoking is the single most important source of preventable disease and premature death in California.

(2) Smoking is responsible for one-quarter of all death caused by fire.

(3) Tobacco-related disease places a tremendous financial burden upon the persons with the disease, their families, the health care delivery system, and society as a whole.

(4) Despite laws in at least 44 states prohibiting the sale of tobacco products to minors, each day 3,000 children start using tobacco products in this nation. Children under the age of 18 years consume 947 million packages of cigarettes in this country yearly.

(5) The earlier a child begins to use tobacco products, the more likely it is that the child will be unable to quit.

(6) More than 60 percent of all smokers begin smoking by the age of 14 years, and 90 percent begin by the age of 19 years.

(7) Use of smokeless tobacco products among minors in this state is increasing.

(8) Smokeless tobacco or chewing tobacco is harmful to the health of individuals and may cause gum disease, mouth or oral cancers, increased tooth decay and leukoplakia.

(9) Tobacco product advertising and promotion are an important cause of tobacco use among children. More money is spent advertising and promoting tobacco products than any other consumer product.

(10) Distribution of tobacco product samples, coupons, coupon offers, gift certificates, gift cards, or other similar offers is a recognized source by which minors obtain tobacco products, beginning the addiction process.

(11) It is the intent of the Legislature that keeping children from beginning to use tobacco products in any form and encouraging all persons to quit tobacco use shall be among the highest priorities in disease prevention for the State of California.

(b) It is unlawful for any person, agent, or employee of a person in the business of selling or distributing smokeless tobacco or cigarettes to engage in the nonsale distribution of any smokeless tobacco or cigarettes to any person in any public building, park or playground, or on any public sidewalk, street, or other public grounds, or on any private property that is open to the general public.

(c) For purposes of this section:

(1) "Nonsale distribution" means to give smokeless tobacco or cigarettes to the general public at no cost, or at nominal cost, or to give coupons, coupon offers, gift certificates, gift cards, or other similar offers, or rebate offers for smokeless tobacco or cigarettes to the general public at no cost or at nominal cost. Distribution of tobacco products, coupons, coupon offers, gift certificates, gift cards, or other similar offers, or rebate offers in connection with the sale of another item, including tobacco products, cigarette lighters, magazines, or newspapers shall not constitute nonsale distribution.

(2) "Smokeless tobacco" means (A) a loose or flat, compressed cake form of tobacco that may be chewed or held in the mouth or (B) a shredded, powdered, or pulverized form of tobacco that may be inhaled through the nostrils, chewed, or held in the mouth.

(3) "Public building, park, playground, sidewalk, street, or other public grounds" means any structure or outdoor area that is owned, operated, or maintained by any public entity, including, but not limited to: city and county streets and sidewalks, parade grounds, fair grounds, public transportation facilities and terminals, public reception areas, public health facilities, public recreational facilities, and public office buildings.

(4) "Private property that is open to the general public" means any structure or outdoor area that is owned, operated, or maintained by any

private entity and that is open for entry or use by the general public, whether or not a fee or charge is imposed for entry or use.

(d) Any person who violates this section shall be liable for a civil penalty of not less than two hundred dollars ($200) for one act, five hundred dollars ($500) for two acts, and one thousand dollars ($1,000) for each subsequent act constituting a violation. Each distribution of a single package, coupon, coupon offer, gift certificates, gift cards, or other similar offers, or rebate offer to an individual member of the general public in violation of this section shall be considered a separate violation.

(e) Neither this section nor any other provision of law shall invalidate an ordinance of, or prohibit the adoption of an ordinance by, a city or county regulating distribution of smokeless tobacco or cigarette samples within its boundaries that is more restrictive than this section. An ordinance that imposes greater restrictions on the sale or distribution of tobacco than this section shall govern, to the extent of any inconsistency between it and this section.

(f) Subdivisions (a) to (e), inclusive, do not apply to any public building, park, playground, sidewalk, street, or other public grounds, or any private property that is open to the general public where minors are prohibited by law. Subdivisions (a) to (e), inclusive, do not apply to any public building, park, playground, sidewalk, street, or other public grounds open to the general public and leased for private functions where minors are denied access by a peace officer or licensed security guard on the premises.

(g) Subdivisions (a) to (e), inclusive, do not apply to any private property that is open to the general public where minors are denied access to a separate nonsale distribution area by a peace officer or licensed security guard stationed at the entrance of the separate nonsale distribution area and the separate nonsale distribution area is enclosed so as to prevent persons outside the separate nonsale distribution area from seeing the nonsale distribution unless they undertake unreasonable efforts to see inside the area.

SEC. 3. This bill and AB 1617 both contain provisions making changes to Section 22963 of the Business and Professions Code. This bill would amend the section and AB 1617 would repeal, recast, and add the section. If both bills are enacted and become effective on or before January 1, 2008, Sections 2 and 3 of AB 1617 repealing and adding Section 22963 of the Business and Professions Code shall become operative and Section 1 of this bill amending Section 22963 of the Business and Professions Code shall not become operative, regardless of the order of enactment.

CHAPTER 446

An act to add Section 17510.25 to the Business and Professions Code, relating to charitable solicitations.

[Approved by Governor October 10, 2007. Filed with Secretary of State October 10, 2007.]

The people of the State of California do enact as follows:

SECTION 1. The Legislature hereby finds and declares all of the following:

(a) For over 50 years, firefighters across California have engaged in charitable fundraising events in order to support medical research of debilitating diseases such as muscular dystrophy; to purchase and provide medical equipment such as wheelchairs, braces, and communication devices to children with neuromuscular diseases; and to conduct summer camps for children with muscular dystrophy. The most successful fundraising event that firefighters have employed is the signature "fill-the-boot" campaign, which consists of firefighters asking motorists passing fire stations to contribute to these causes by putting money into firefighter boots or facsimiles of firefighter boots.

(b) During the last three years, the money raised by firefighters using the "fill-the-boot" campaign provided approximately seven million dollars ($7,000,000) to the University of California, California State University, and Stanford University for use in developing treatments for muscular dystrophies, motor neuron diseases, peripheral nerve disorders, inflammatory myopathies, disorders of the neuromuscular junction, and metabolic diseases of the muscle, among others.

(c) The money raised by firefighters using "fill-the-boot" campaigns helps the charities that firefighters support and provides an economic advantage to the state and local communities by ensuring that the money raised in California stays in California. Furthermore, these fundraising campaigns unite firefighters with their communities and provide firefighters with opportunities to share their team strength and fellowship in better service to their communities.

(d) Because some local ordinances have recently been passed to limit or prohibit aggressive begging or panhandling in public roadways, firefighters organizing and conducting "fill-the-boot" campaigns have experienced a decline in contributions. California firefighters and other law enforcement organizations that conduct similar fundraising activities have become concerned that fundraising activities involving collections

from passing motorists may have been unintentionally swept into those prohibited activities.

(e) It is therefore the intent of the Legislature to clarify that law enforcement personnel and firefighters, as well as other local agency personnel involved in public safety, because of their established training and experience in controlling traffic and other activities in and around public roadways, may be provided a separate procedure for obtaining permits from local agencies to conduct fundraising activities such as "fill-the-boot" campaigns, notwithstanding any city or county ordinance governing solicitations for charitable contributions on public roadways.

(f) The Legislature further finds and declares that the compelling interest in offering this express process to law enforcement personnel, firefighters, and other public safety personnel does not impinge upon and essentially furthers the stated interest of these local ordinances by narrowly tailoring the process authorized by this act to those local agency personnel most suited to protect the public safety.

SEC. 2. Section 17510.25 is added to the Business and Professions Code, to read:

17510.25. (a) A charity, as defined in subdivision (e), may engage in a solicitation for charitable purposes that involves persons standing in a public roadway soliciting contributions from passing motorists, if both of the following requirements are met:

(1) The persons to be engaged in the solicitation are law enforcement personnel, firefighters, or other persons employed to protect the public safety of a local agency, as defined in subdivision (d), and that are soliciting solely in an area that is within the service area of that local agency.

(2) The charity files an application with the city, county, or city and county, as applicable, having jurisdiction over the location or locations where the solicitation is to occur. The application shall be filed not later than 10 business days before the date that the solicitation is to begin and shall include all of the following:

(A) The date or dates and times of day when the solicitation is to occur.

(B) The location or locations where the solicitation is to occur.

(C) The manner and conditions under which the solicitation is to occur.

(D) Proof of a valid liability insurance policy in the amount of at least one million dollars ($1,000,000) insuring the charity, the local agency referenced in paragraph (1), and the city, county, or city and county referenced in this paragraph against bodily injury and property damage arising out of or in connection with the solicitation.

(b) The city, county, or city and county shall approve the application within five business days of the filing date of the application, but may impose reasonable conditions in writing that are consistent with the intent of this section and that are based on articulated public safety concerns.

(c) By acting under this section, a local agency referred to in paragraph (1) of subdivision (a) and a city, county, or city and county referred to in paragraph (2) of subdivision (a) do not waive or limit any immunity from liability provided by any other provision of law.

(d) For purposes of this section, "local agency" means a city, county, city and county, special district, joint powers authority, or other political subdivision of the state.

(e) For purposes of this section, "charity" means a charity subject to supervision by the Attorney General pursuant to Article 7 (commencing with Section 12580) of Chapter 6 of Part 2 of Division 3 of Title 2 of the Government Code.

(f) The Legislature finds and declares that the extraordinary liability insurance requirement contained in this section is necessary in order to protect the public safety due solely to the particular and unique circumstances governed by this section that involve charitable solicitations from passing motorists in a public roadway, where the activity of solicitation may present a recognizable potential safety hazard.

(g) This section is not intended to prevent a local agency from adopting an ordinance regulating the time, place, or manner of charitable solicitations in a public roadway by other persons or charities.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

CHAPTER 447

An act to amend Sections 12301.6 and 15660 of the Welfare and Institutions Code, relating to public social services.

[Approved by Governor October 10, 2007. Filed with Secretary of State October 10, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 12301.6 of the Welfare and Institutions Code is amended to read:

12301.6. (a) Notwithstanding Sections 12302 and 12302.1, a county board of supervisors may, at its option, elect to do either of the following:

(1) Contract with a nonprofit consortium to provide for the delivery of in-home supportive services.

(2) Establish, by ordinance, a public authority to provide for the delivery of in-home supportive services.

(b) (1) To the extent that a county elects to establish a public authority pursuant to paragraph (2) of subdivision (a), the enabling ordinance shall specify the membership of the governing body of the public authority, the qualifications for individual members, the manner of appointment, selection, or removal of members, how long they shall serve, and other matters as the board of supervisors deems necessary for the operation of the public authority.

(2) A public authority established pursuant to paragraph (2) of subdivision (a) shall be both of the following:

(A) An entity separate from the county, and shall be required to file the statement required by Section 53051 of the Government Code.

(B) A corporate public body, exercising public and essential governmental functions and that has all powers necessary or convenient to carry out the delivery of in-home supportive services, including the power to contract for services pursuant to Sections 12302 and 12302.1 and that makes or provides for direct payment to a provider chosen by the recipient for the purchase of services pursuant to Sections 12302 and 12302.2. Employees of the public authority shall not be employees of the county for any purpose.

(3) (A) As an alternative, the enabling ordinance may designate the board of supervisors as the governing body of the public authority.

(B) Any enabling ordinance that designates the board of supervisors as the governing body of the public authority shall also specify that no fewer than 50 percent of the membership of the advisory committee shall be individuals who are current or past users of personal assistance services paid for through public or private funds or recipients of services under this article.

(C) If the enabling ordinance designates the board of supervisors as the governing body of the public authority, it shall also require the appointment of an advisory committee of not more than 11 individuals who shall be designated in accordance with subparagraph (B).

(D) Prior to making designations of committee members pursuant to subparagraph (C), or governing body members in accordance with

paragraph (4), the board of supervisors shall solicit recommendations of qualified members of either the governing body of the public authority or of any advisory committee through a fair and open process that includes the provision of reasonable written notice to, and a reasonable response time by, members of the general public and interested persons and organizations.

(4) If the enabling ordinance does not designate the board of supervisors as the governing body of the public authority, the enabling ordinance shall require the membership of the governing body to meet the requirements of subparagraph (B) of paragraph (3).

(c) (1) Any public authority created pursuant to this section shall be deemed to be the employer of in-home supportive services personnel referred to recipients under paragraph (3) of subdivision (e) within the meaning of Chapter 10 (commencing with Section 3500) of Division 4 of Title 1 of the Government Code. Recipients shall retain the right to hire, fire, and supervise the work of any in-home supportive services personnel providing services to them.

(2) (A) Any nonprofit consortium contracting with a county pursuant to this section shall be deemed to be the employer of in-home supportive services personnel referred to recipients pursuant to paragraph (3) of subdivision (e) for the purposes of collective bargaining over wages, hours, and other terms and conditions of employment.

(B) Recipients shall retain the right to hire, fire, and supervise the work of any in-home supportive services personnel providing services for them.

(d) A public authority established pursuant to this section or a nonprofit consortium contracting with a county pursuant to this section, when providing for the delivery of services under this article by contract in accordance with Sections 12302 and 12302.1 or by direct payment to a provider chosen by a recipient in accordance with Sections 12302 and 12302.2, shall comply with and be subject to, all statutory and regulatory provisions applicable to the respective delivery mode.

(e) Any nonprofit consortium contracting with a county pursuant to this section or any public authority established pursuant to this section shall provide for all of the following functions under this article, but shall not be limited to those functions:

(1) The provision of assistance to recipients in finding in-home supportive services personnel through the establishment of a registry.

(2) (A) (i) The investigation of the qualifications and background of potential personnel. The investigation may, with respect to any prospective registry applicant who is not employed before January 1, 2008, include criminal background checks requested by the nonprofit consortium or public authority and conducted by the Department of

Justice pursuant to Section 15660, for those public authorities or nonprofit consortia using the agencies on January 1, 2008.

(ii) Upon notice from the Department of Justice notifying the public authority or nonprofit consortium that the prospective registry applicant has been convicted of a criminal offense specified in Section 12305.81, the public authority or nonprofit consortium shall deny the request to be placed on the registry for providing supportive services to any recipient of the In-Home Supportive Services program.

(B) If an applicant is rejected as a result of information contained in the criminal background report, the applicant shall be advised in writing of his or her right to request a copy of his or her own criminal history record from the Department of Justice, as provided in Article 5 (commencing with Section 11120) of Chapter 1 of Title 1 of Part 4 of the Penal Code, to review the information for accuracy and completeness. The applicant shall be advised that if, upon review of his or her own criminal history record he or she finds the information to be inaccurate or incomplete, the applicant shall have the right to submit a formal challenge to the Department of Justice to contest the criminal background report.

(C) An applicant shall be informed of his or her right to a waiver of the fee for obtaining a copy of a criminal history record, and of how to submit a claim and proof of indigency, as required by Section 11123 of the Penal Code.

(D) No fee shall be charged to a provider, potential personnel, or service recipient to cover any costs of administering this paragraph, or the cost to the Department of Justice or any law enforcement agency for processing the criminal background check. Nothing in this paragraph shall be construed to prohibit the Department of Justice from assessing a fee pursuant to Section 11105 or 11123 of the Penal Code to cover the cost of furnishing summary criminal history information. A public authority or nonprofit consortium shall not seek reimbursement unless the conditions described in subparagraph (F) are met.

(E) As used in this section, "nonprofit consortium" means a nonprofit public benefit corporation that has all powers necessary to carry out the delivery of in-home supportive services under the delegated authority of a government entity.

(F) (i) Upon verification that at least 50 percent of the public authority or nonprofit consortium list of registry applicants have received a criminal background check, the county may request reimbursement for the non-federal share of cost associated with the criminal fingerprint record check in accordance to the fiscal claiming methodology.

(ii) The public authority or nonprofit consortium shall provide a report to the State Department of Social Services on the number of prospective

registry applicants that have been referred to the Department of Justice for a criminal background check.

(iii) The Department of Justice shall provide verification to the State Department of Social Services on the number of prospective registry applicants that have completed a criminal background check.

(3) Establishment of a referral system under which in-home supportive services personnel shall be referred to recipients.

(4) Providing for training for providers and recipients.

(5) (A) Performing any other functions related to the delivery of in-home supportive services.

(B) (i) Upon request of a recipient of in-home supportive services pursuant to this chapter, or a recipient of personal care services under the Medi-Cal program pursuant to Section 14132.95, a public authority or nonprofit consortium may provide a criminal background check on a non-registry applicant or provider from the Department of Justice, in accordance with clause (i) of subparagraph (A) of paragraph (2) of subdivision (e). If the person who is the subject of the criminal background check is not hired or is terminated because of the information contained in the criminal background report, the provisions of subparagraph (B) of paragraph (2) of subdivision (e) shall apply.

(ii) A recipient of in-home supportive services pursuant to this chapter or a recipient of personal care services under the Medi-Cal program may elect to employ an individual as their service provider notwithstanding the individual's record of previous criminal convictions, unless those convictions include any of the offenses specified in Section 12305.81.

(6) Ensuring that the requirements of the personal care option pursuant to Subchapter 19 (commencing with Section 1396) of Chapter 7 of Title 42 of the United States Code are met.

(f) (1) Any nonprofit consortium contracting with a county pursuant to this section or any public authority created pursuant to this section shall be deemed not to be the employer of in-home supportive services personnel referred to recipients under this section for purposes of liability due to the negligence or intentional torts of the in-home supportive services personnel.

(2) In no case shall a nonprofit consortium contracting with a county pursuant to this section or any public authority created pursuant to this section be held liable for action or omission of any in-home supportive services personnel whom the nonprofit consortium or public authority did not list on its registry or otherwise refer to a recipient.

(3) Counties and the state shall be immune from any liability resulting from their implementation of this section in the administration of the In-Home Supportive Services program. Any obligation of the public authority or consortium pursuant to this section, whether statutory,

contractual, or otherwise, shall be the obligation solely of the public authority or nonprofit consortium, and shall not be the obligation of the county or state.

(g) Any nonprofit consortium contracting with a county pursuant to this section shall ensure that it has a governing body that complies with the requirements of subparagraph (B) of paragraph (3) of subdivision (b) or an advisory committee that complies with subparagraphs (B) and (C) of paragraph (3) of subdivision (b).

(h) Recipients of services under this section may elect to receive services from in-home supportive services personnel who are not referred to them by the public authority or nonprofit consortium. Those personnel shall be referred to the public authority or nonprofit consortium for the purposes of wages, benefits, and other terms and conditions of employment.

(i) (1) Nothing in this section shall be construed to affect the state's responsibility with respect to the state payroll system, unemployment insurance, or workers' compensation and other provisions of Section 12302.2 for providers of in-home supportive services.

(2) The Controller shall make any deductions from the wages of in-home supportive services personnel, who are employees of a public authority pursuant to paragraph (1) of subdivision (c), that are agreed to by that public authority in collective bargaining with the designated representative of the in-home supportive services personnel pursuant to Chapter 10 (commencing with Section 3500) of Division 4 of Title 1 of the Government Code and transfer the deducted funds as directed in that agreement.

(3) Any county that elects to provide in-home supportive services pursuant to this section shall be responsible for any increased costs to the in-home supportive services case management, information, and payrolling system attributable to that election. The department shall collaborate with any county that elects to provide in-home supportive services pursuant to this section prior to implementing the amount of financial obligation for which the county shall be responsible.

(j) To the extent permitted by federal law, personal care option funds, obtained pursuant to Subchapter 19 (commencing with Section 1396) of Chapter 7 of Title 42 of the United States Code, along with matching funds using the state and county sharing ratio established in subdivision (c) of Section 12306, or any other funds that are obtained pursuant to Subchapter 19 (commencing with Section 1396) of Chapter 7 of Title 42 of the United States Code, may be used to establish and operate an entity authorized by this section.

(k) Notwithstanding any other provision of law, the county, in exercising its option to establish a public authority, shall not be subject

to competitive bidding requirements. However, contracts entered into by either the county, a public authority, or a nonprofit consortium pursuant to this section shall be subject to competitive bidding as otherwise required by law.

(*l*) (1) The department may adopt regulations implementing this section as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. For the purposes of the Administrative Procedure Act, the adoption of the regulations shall be deemed an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, these emergency regulations shall not be subject to the review and approval of the Office of Administrative Law.

(2) Notwithstanding subdivision (h) of Section 11346.1 and Section 11349.6 of the Government Code, the department shall transmit these regulations directly to the Secretary of State for filing. The regulations shall become effective immediately upon filing by the Secretary of State.

(3) Except as otherwise provided for by Section 10554, the Office of Administrative Law shall provide for the printing and publication of these regulations in the California Code of Regulations. Emergency regulations adopted pursuant to this subdivision shall remain in effect for no more than 180 days.

(m) (1) In the event that a county elects to form a nonprofit consortium or public authority pursuant to subdivision (a) before the State Department of Health Care Services has obtained all necessary federal approvals pursuant to paragraph (3) of subdivision (j) of Section 14132.95, all of the following shall apply:

(A) Subdivision (d) shall apply only to those matters that do not require federal approval.

(B) The second sentence of subdivision (h) shall not be operative.

(C) The nonprofit consortium or public authority shall not provide services other than those specified in paragraphs (1), (2), (3), (4), and (5) of subdivision (e).

(2) Paragraph (1) shall become inoperative when the State Department of Health Care Services has obtained all necessary federal approvals pursuant to paragraph (3) of subdivision (j) of Section 14132.95.

(n) (1) One year after the effective date of the first approval by the department granted to the first public authority, the Bureau of State Audits shall commission a study to review the performance of that public authority.

(2) The study shall be submitted to the Legislature and the Governor not later than two years after the effective date of the approval specified

in subdivision (a). The study shall give special attention to the health and welfare of the recipients under the public authority, including the degree to which all required services have been delivered, out-of-home placement rates, prompt response to recipient complaints, and any other issue the director deems relevant.

(3) The report shall make recommendations to the Legislature and the Governor for any changes to this section that will further ensure the well-being of recipients and the most efficient delivery of required services.

(o) Commencing July 1, 1997, the department shall provide annual reports to the appropriate fiscal and policy committees of the Legislature on the efficacy of the implementation of this section, and shall include an assessment of the quality of care provided pursuant to this section.

(p) (1) Notwithstanding any other provision of law, and except as provided in paragraph (2), the department shall, no later than January 1, 2009, implement subparagraphs (A) and (B) through an all county letter from the director:

(A) Subparagraphs (A) and (B) of paragraph (2) of subdivision (e).

(B) Subparagraph (B) of paragraph (5) of subdivision (e).

(2) The department shall, no later than July 1, 2009, adopt regulations to implement subparagraphs (A) and (B) of paragraph (1).

(q) The amendments made to paragraphs (2) and (5) of subdivision (e) made by the act that added this subdivision during the 2007-08 Regular Session of the Legislature shall only be implemented to the extent that an appropriation is made in the annual Budget Act or other statute.

SEC. 1.5. Section 12301.6 of the Welfare and Institutions Code is amended to read:

12301.6. (a) Notwithstanding Sections 12302 and 12302.1, a county board of supervisors may, at its option, elect to do either of the following:

(1) Contract with a nonprofit consortium to provide for the delivery of in-home supportive services.

(2) Establish, by ordinance, a public authority to provide for the delivery of in-home supportive services.

(b) (1) To the extent that a county elects to establish a public authority pursuant to paragraph (2) of subdivision (a), the enabling ordinance shall specify the membership of the governing body of the public authority, the qualifications for individual members, the manner of appointment, selection, or removal of members, how long they shall serve, and other matters as the board of supervisors deems necessary for the operation of the public authority.

(2) A public authority established pursuant to paragraph (2) of subdivision (a) shall be both of the following:

(A) An entity separate from the county, and shall be required to file the statement required by Section 53051 of the Government Code.

(B) A corporate public body, exercising public and essential governmental functions and that has all powers necessary or convenient to carry out the delivery of in-home supportive services, including the power to contract for services pursuant to Sections 12302 and 12302.1 and that makes or provides for direct payment to a provider chosen by the recipient for the purchase of services pursuant to Sections 12302 and 12302.2. Employees of the public authority shall not be employees of the county for any purpose.

(3) (A) As an alternative, the enabling ordinance may designate the board of supervisors as the governing body of the public authority.

(B) Any enabling ordinance that designates the board of supervisors as the governing body of the public authority shall also specify that no fewer than 50 percent of the membership of the advisory committee shall be individuals who are current or past users of personal assistance services paid for through public or private funds or recipients of services under this article.

(C) If the enabling ordinance designates the board of supervisors as the governing body of the public authority, it shall also require the appointment of an advisory committee of not more than 11 individuals who shall be designated in accordance with subparagraph (B).

(D) Prior to making designations of committee members pursuant to subparagraph (C), or governing body members in accordance with paragraph (4), the board of supervisors shall solicit recommendations of qualified members of either the governing body of the public authority or of any advisory committee through a fair and open process that includes the provision of reasonable written notice to, and a reasonable response time by, members of the general public and interested persons and organizations.

(4) If the enabling ordinance does not designate the board of supervisors as the governing body of the public authority, the enabling ordinance shall require the membership of the governing body to meet the requirements of subparagraph (B) of paragraph (3).

(c) (1) Any public authority created pursuant to this section shall be deemed to be the employer of in-home supportive services personnel referred to recipients under paragraph (3) of subdivision (e) within the meaning of Chapter 10 (commencing with Section 3500) of Division 4 of Title 1 of the Government Code. Recipients shall retain the right to hire, fire, and supervise the work of any in-home supportive services personnel providing services to them.

(2) (A) Any nonprofit consortium contracting with a county pursuant to this section shall be deemed to be the employer of in-home supportive

services personnel referred to recipients pursuant to paragraph (3) of subdivision (e) for the purposes of collective bargaining over wages, hours, and other terms and conditions of employment.

(B) Recipients shall retain the right to hire, fire, and supervise the work of any in-home supportive services personnel providing services for them.

(d) A public authority established pursuant to this section or a nonprofit consortium contracting with a county pursuant to this section, when providing for the delivery of services under this article by contract in accordance with Sections 12302 and 12302.1 or by direct payment to a provider chosen by a recipient in accordance with Sections 12302 and 12302.2, shall comply with and be subject to, all statutory and regulatory provisions applicable to the respective delivery mode.

(e) Any nonprofit consortium contracting with a county pursuant to this section or any public authority established pursuant to this section shall provide for all of the following functions under this article, but shall not be limited to those functions:

(1) The provision of assistance to recipients in finding in-home supportive services personnel through the establishment of a registry.

(2) (A) (i) The investigation of the qualifications and background of potential personnel. The investigation may, with respect to any prospective registry applicant who is not employed before January 1, 2008, include criminal background checks requested by the nonprofit consortium or public authority and conducted by the Department of Justice pursuant to Section 15660, for those public authorities or nonprofit consortia using the agencies on January 1, 2008.

(ii) Upon notice from the Department of Justice notifying the public authority or nonprofit consortium that the prospective registry applicant has been convicted of a criminal offense specified in Section 12305.81, the public authority or nonprofit consortium shall deny the request to be placed on the registry for providing supportive services to any recipient of the In-Home Supportive Services program.

(B) If an applicant is rejected as a result of information contained in the criminal background report, the applicant shall be advised in writing of his or her right to request a copy of his or her own criminal history record from the Department of Justice, as provided in Article 5 (commencing with Section 11120) of Chapter 1 of Title 1 of Part 4 of the Penal Code, to review the information for accuracy and completeness. The applicant shall be advised that if, upon review of his or her own criminal history record he or she finds the information to be inaccurate or incomplete, the applicant shall have the right to submit a formal challenge to the Department of Justice to contest the criminal background report.

(C) An applicant shall be informed of his or her right to a waiver of the fee for obtaining a copy of a criminal history record, and of how to submit a claim and proof of indigency, as required by Section 11123 of the Penal Code.

(D) No fee shall be charged to a provider, potential personnel, or service recipient to cover any costs of administering this paragraph, or the cost to the Department of Justice or any law enforcement agency for processing the criminal background check. Nothing in this paragraph shall be construed to prohibit the Department of Justice from assessing a fee pursuant to Section 11105 or 11123 of the Penal Code to cover the cost of furnishing summary criminal history information. A public authority or nonprofit consortium shall not seek reimbursement unless the conditions described in subparagraph (F) are met.

(E) As used in this section, "nonprofit consortium" means a nonprofit public benefit corporation that has all powers necessary to carry out the delivery of in-home supportive services under the delegated authority of a government entity.

(F) (i) Upon verification that at least 50 percent of the public authority or nonprofit consortium list of registry applicants have received a criminal background check, the county may request reimbursement for the non-federal share of cost associated with the criminal fingerprint record check in accordance to the fiscal claiming methodology.

(ii) The public authority or nonprofit consortium shall provide a report to the State Department of Social Services on the number of prospective registry applicants that have been referred to the Department of Justice for a criminal background check.

(iii) The Department of Justice shall provide verification to the State Department of Social Services on the number of prospective registry applicants that have completed a criminal background check.

(3) Establishment of a referral system under which in-home supportive services personnel shall be referred to recipients.

(4) (A) Providing for training for providers and recipients.

(B) Each public authority or nonprofit consortium shall, with input from its advisory committee and other stakeholders, develop training standards and core topics for the training provided pursuant to subparagraph (A).

(5) (A) Performing any other functions related to the delivery of in-home supportive services.

(B) (i) Upon request of a recipient of in-home supportive services pursuant to this chapter, or a recipient of personal care services under the Medi-Cal program pursuant to Section 14132.95, a public authority or nonprofit consortium may provide a criminal background check on a non-registry applicant or provider from the Department of Justice, in

accordance with clause (i) of subparagraph (A) of paragraph (2) of subdivision (e). If the person who is the subject of the criminal background check is not hired or is terminated because of the information contained in the criminal background report, the provisions of subparagraph (B) of paragraph (2) of subdivision (e) shall apply.

(ii) A recipient of in-home supportive services pursuant to this chapter or a recipient of personal care services under the Medi-Cal program may elect to employ an individual as their service provider notwithstanding the individual's record of previous criminal convictions, unless those convictions include any of the offenses specified in Section 12305.81.

(6) Ensuring that the requirements of the personal care option pursuant to Subchapter 19 (commencing with Section 1396) of Chapter 7 of Title 42 of the United States Code are met.

(f) (1) Any nonprofit consortium contracting with a county pursuant to this section or any public authority created pursuant to this section shall be deemed not to be the employer of in-home supportive services personnel referred to recipients under this section for purposes of liability due to the negligence or intentional torts of the in-home supportive services personnel.

(2) In no case shall a nonprofit consortium contracting with a county pursuant to this section or any public authority created pursuant to this section be held liable for action or omission of any in-home supportive services personnel whom the nonprofit consortium or public authority did not list on its registry or otherwise refer to a recipient.

(3) Counties and the state shall be immune from any liability resulting from their implementation of this section in the administration of the In-Home Supportive Services program. Any obligation of the public authority or consortium pursuant to this section, whether statutory, contractual, or otherwise, shall be the obligation solely of the public authority or nonprofit consortium, and shall not be the obligation of the county or state.

(g) Any nonprofit consortium contracting with a county pursuant to this section shall ensure that it has a governing body that complies with the requirements of subparagraph (B) of paragraph (3) of subdivision (b) or an advisory committee that complies with subparagraphs (B) and (C) of paragraph (3) of subdivision (b).

(h) Recipients of services under this section may elect to receive services from in-home supportive services personnel who are not referred to them by the public authority or nonprofit consortium. Those personnel shall be referred to the public authority or nonprofit consortium for the purposes of wages, benefits, and other terms and conditions of employment.

(i) (1) Nothing in this section shall be construed to affect the state's responsibility with respect to the state payroll system, unemployment insurance, or workers' compensation and other provisions of Section 12302.2 for providers of in-home supportive services.

(2) The Controller shall make any deductions from the wages of in-home supportive services personnel, who are employees of a public authority pursuant to paragraph (1) of subdivision (c), that are agreed to by that public authority in collective bargaining with the designated representative of the in-home supportive services personnel pursuant to Chapter 10 (commencing with Section 3500) of Division 4 of Title 1 of the Government Code and transfer the deducted funds as directed in that agreement.

(3) Any county that elects to provide in-home supportive services pursuant to this section shall be responsible for any increased costs to the in-home supportive services case management, information, and payrolling system attributable to that election. The department shall collaborate with any county that elects to provide in-home supportive services pursuant to this section prior to implementing the amount of financial obligation for which the county shall be responsible.

(j) To the extent permitted by federal law, personal care option funds, obtained pursuant to Subchapter 19 (commencing with Section 1396) of Chapter 7 of Title 42 of the United States Code, along with matching funds using the state and county sharing ratio established in subdivision (c) of Section 12306, or any other funds that are obtained pursuant to Subchapter 19 (commencing with Section 1396) of Chapter 7 of Title 42 of the United States Code, may be used to establish and operate an entity authorized by this section.

(k) Notwithstanding any other provision of law, the county, in exercising its option to establish a public authority, shall not be subject to competitive bidding requirements. However, contracts entered into by either the county, a public authority, or a nonprofit consortium pursuant to this section shall be subject to competitive bidding as otherwise required by law.

(*l*) (1) The department may adopt regulations implementing this section as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. For the purposes of the Administrative Procedure Act, the adoption of the regulations shall be deemed an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, these emergency regulations shall not be subject to the review and approval of the Office of Administrative Law.

(2) Notwithstanding subdivision (h) of Section 11346.1 and Section 11349.6 of the Government Code, the department shall transmit these regulations directly to the Secretary of State for filing. The regulations shall become effective immediately upon filing by the Secretary of State.

(3) Except as otherwise provided for by Section 10554, the Office of Administrative Law shall provide for the printing and publication of these regulations in the California Code of Regulations. Emergency regulations adopted pursuant to this subdivision shall remain in effect for no more than 180 days.

(m) (1) In the event that a county elects to form a nonprofit consortium or public authority pursuant to subdivision (a) before the State Department of Health Care Services has obtained all necessary federal approvals pursuant to paragraph (3) of subdivision (j) of Section 14132.95, all of the following shall apply:

(A) Subdivision (d) shall apply only to those matters that do not require federal approval.

(B) The second sentence of subdivision (h) shall not be operative.

(C) The nonprofit consortium or public authority shall not provide services other than those specified in paragraphs (1), (2), (3), (4), and (5) of subdivision (e).

(2) Paragraph (1) shall become inoperative when the State Department of Health Care Services has obtained all necessary federal approvals pursuant to paragraph (3) of subdivision (j) of Section 14132.95.

(n) (1) One year after the effective date of the first approval by the department granted to the first public authority, the Bureau of State Audits shall commission a study to review the performance of that public authority.

(2) The study shall be submitted to the Legislature and the Governor not later than two years after the effective date of the approval specified in subdivision (a). The study shall give special attention to the health and welfare of the recipients under the public authority, including the degree to which all required services have been delivered, out-of-home placement rates, prompt response to recipient complaints, and any other issue the director deems relevant.

(3) The report shall make recommendations to the Legislature and the Governor for any changes to this section that will further ensure the well-being of recipients and the most efficient delivery of required services.

(o) Commencing July 1, 1997, the department shall provide annual reports to the appropriate fiscal and policy committees of the Legislature on the efficacy of the implementation of this section, and shall include an assessment of the quality of care provided pursuant to this section.

(p) (1) Notwithstanding any other provision of law, and except as provided in paragraph (2), the department shall, no later than January 1, 2009, implement subparagraphs (A) and (B) through an all county letter from the director:

(A) Subparagraphs (A) and (B) of paragraph (2) of subdivision (e).

(B) Subparagraph (B) of paragraph (5) of subdivision (e).

(2) The department shall, no later than July 1, 2009, adopt regulations to subparagraphs (A) and (B) of paragraph (1).

(q) The amendments made to paragraphs (2) and (5) of subdivision (e) made by the act that added this subdivision during the 2007-08 Regular Session of the Legislature shall only be implemented to the extent that an appropriation is made in the annual Budget Act or other statute.

SEC. 2. Section 15660 of the Welfare and Institutions Code is amended to read:

15660. (a) The Department of Justice shall secure any criminal record of a person to determine whether the person has ever been convicted of a violation or attempted violation of Section 243.4 of the Penal Code, a sex offense against a minor, or of any felony that requires registration pursuant to Section 290 of the Penal Code, or whether the person has been convicted or incarcerated within the last 10 years as the result of committing a violation or attempted violation of Section 273a, 273d, or subdivision (a) or (b) of Section 368, of the Penal Code, or as the result of committing a theft, robbery, burglary, or any felony, and shall provide a subsequent arrest notification pursuant to Section 11105.2 of the Penal Code, if both of the following conditions are met:

(1) An employer of the person requests the determination and submits fingerprints of the person to the Department of Justice. For purposes of this paragraph, "employer" includes, but is not limited to, an in-home supportive services recipient, as defined by Section 12302.2, any recipient of personal care services under the Medi-Cal program pursuant to Section 14132.95, and any public authority or nonprofit consortium, as described in subdivision (a) of Section 12301.6.

(2) The person is unlicensed and provides nonmedical domestic or personal care to an aged or disabled adult in the adult's own home.

(b) (1) If it is found that the person has ever been convicted of a violation or attempted violation of Section 243.4 of the Penal Code, a sex offense against a minor, or of any felony which requires registration pursuant to Section 290 of the Penal Code, or that the person has been convicted or incarcerated within the last 10 years as the result of committing a violation or attempted violation of Section 273a, 273d, or subdivision (a) or (b) of Section 368, of the Penal Code, or as the result of committing a theft, robbery, burglary, or any felony, the Department

of Justice shall notify the employer of that fact. If no criminal record information has been recorded, the Department of Justice shall provide the employer with a statement of that fact.

(2) Any employer may deny employment to any person who is the subject of a report under paragraph (1) when the report indicates that the person has committed any of the crimes identified in paragraph (1).

(3) Nothing in this section shall be construed to require any employer to hire any person who is the subject of a report under paragraph (1) when the report indicates that the person has not committed any of the crimes indicated in paragraph (1).

(c) (1) Fingerprints shall be on a card provided by the Department of Justice for the purpose of obtaining a set of fingerprints. The employer shall submit the fingerprints to the Department of Justice. Within 30 calendar days of the receipt of the fingerprints, the Department of Justice shall notify the employer of the criminal record information, as provided in this subdivision. If no criminal record information has been recorded, the Department of Justice shall provide the employer with a statement of that fact as soon as possible, but not later than 30 calendar days of receipt of the fingerprints. If new fingerprints are required for processing, the Department of Justice shall, as soon as possible, but not later than 30 calendar days from the date of receipt of the fingerprints, notify the employer that the fingerprints were illegible.

(2) Fingerprints may be taken by any local law enforcement officer or agency for purposes of paragraph (1).

(3) Counties shall notify any recipient of, or applicant for, in-home supportive services or personal care services under the Medi-Cal program, upon his or her application for in-home supportive services or personal care services or during his or her annual redetermination, or upon the recipient's changing providers, that a criminal record check is available, and that the check can be performed by the Department of Justice.

(d) (1) The Department of Justice shall charge a fee to the employer to cover the costs of administering this section.

(2) (A) If the employer is an in-home supportive services recipient, as defined in Section 123202.2, a recipient of personal care services under the Medi-Cal program pursuant to Section 14132.95, or any public authority or nonprofit consortium as described in subdivision (a) of Section 12301.6, the fee shall be shared by the county and the state in the same ratio as described in Section 12306.

(B) (i) Notwithstanding any other provision of law, and except as provided in clause (ii), the department shall, no later than January 1, 2009, implement subparagraph (A) through an all county letter from the director.

(ii) No later than July 1, 2009, the department shall adopt regulations to implement the provisions listed in clause (i).

(e) It is the intent of the Legislature that the Department of Justice charge a fee to cover its cost in providing services in accordance with this section to comply with the 30-calendar-day requirement for provision to the department of the criminal record information, as contained in subdivision (c).

SEC. 3. Section 1.5 of this bill incorporates amendments to Section 12301.6 of the Welfare and Institutions Code proposed by both this bill and AB 182. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2008, (2) each bill amends Section 12301.6 of the Welfare and Institutions Code, and (3) this bill is enacted after AB 182, in which case Section 1 of this bill shall not become operative.

CHAPTER 448

An act to add Section 11011.26 to the Government Code, relating to state property.

[Approved by Governor October 10, 2007. Filed with Secretary of State October 10, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 11011.26 is added to the Government Code, to read:

11011.26. The Director of General Services, subject to the approval of the State Public Works Board and specific authorization by the Legislature that may be provided for in the Budget Bill, may exchange with the City of Santa Maria, at fair market value, and upon terms and conditions the director deems to be in the best interests of the state, state real property under the jurisdiction of the Department of Motor Vehicles located at 523 South McClellan Street, in the City of Santa Maria, for a land-for-land exchange, build-to-suit lease with a purchase option, new lease purchase agreement, existing leased facility, or any other equitable exchange to be occupied by the Department of Motor Vehicles. The city shall be responsible for all administrative costs associated with the exchange of properties. If the exchange is completed with the city, then the city shall reimburse the Department of General Services for any cost or expense associated with the department's review and approval of the appraisal, conveyance, and acquisition documents. If the exchange is

not completed by January 1, 2010, the director may enter into an exchange agreement with parties other than the City of Santa Maria, at fair market value, and upon terms and conditions the director deems to be in the best interests of the state, to meet the objectives of this section, subject to the approval of the State Public Works Board and funding under the Budget Bill.

SEC. 2. The Legislature finds and declares that the exchange of state property authorized in Section 1 of this act does not constitute a sale of surplus state property as set forth in Section 9 of Article III of the California Constitution or subdivision (g) of Section 11011 of the Government Code.

CHAPTER 449

An act to amend Sections 63.1, 69.5, and 215.1 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor October 10, 2007. Filed with Secretary of State October 10, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 63.1 of the Revenue and Taxation Code is amended to read:

63.1. (a) Notwithstanding any other provision of this chapter, a change in ownership shall not include the following purchases or transfers for which a claim is filed pursuant to this section:

(1) The purchase or transfer of real property which is the principal residence of an eligible transferor in the case of a purchase or transfer between parents and their children.

(2) The purchase or transfer of the first one million dollars ($1,000,000) of full cash value of all other real property of an eligible transferor in the case of a purchase or transfer between parents and their children.

(3) (A) Subject to subparagraph (B), the purchase or transfer of real property described in paragraphs (1) and (2) of subdivision (a) occurring on or after March 27, 1996, between grandparents and their grandchild or grandchildren, if all of the parents of that grandchild or those grandchildren, who qualify as the children of the grandparents, are deceased as of the date of purchase or transfer. Notwithstanding any other provision of law, for the lien date for the 2006–07 fiscal year and each fiscal year thereafter, in determining whether "all of the parents of

that grandchild or those grandchildren, who qualify as the children of the grandparents, are deceased as of the date of purchase or transfer," a son-in-law or daughter-in-law of the grandparent that is a stepparent to the grandchild need not be deceased on the date of the transfer.

(B) A purchase or transfer of a principal residence shall not be excluded pursuant to subparagraph (A) if the transferee grandchild or grandchildren also received a principal residence, or interest therein, through another purchase or transfer that was excludable pursuant to paragraph (1) of subdivision (a). The full cash value of any real property, other than a principal residence, that was transferred to the grandchild or grandchildren pursuant to a purchase or transfer that was excludable pursuant to paragraph (2) of subdivision (a) and the full cash value of a principal residence that fails to qualify for exclusion as a result of the preceding sentence shall be included in applying, for purposes of paragraph (2) of subdivision (a), the one-million-dollar ($1,000,000) full cash value limit specified in paragraph (2) of subdivision (a).

(b) (1) For purposes of paragraph (1) of subdivision (a), "principal residence" means a dwelling that is eligible for a homeowners' exemption or a disabled veterans' exemption as a result of the transferor's ownership and occupation of the dwelling. "Principal residence" includes only that portion of the land underlying the residence that consists of an area of reasonable size that is used as a site for the residence.

(2) For purposes of paragraph (2) of subdivision (a), the one-million-dollar ($1,000,000) exclusion shall apply separately to each eligible transferor with respect to all purchases by and transfers to eligible transferees on and after November 6, 1986, of real property, other than the principal residence, of that eligible transferor. The exclusion shall not apply to any property in which the eligible transferor's interest was received through a transfer, or transfers, excluded from change in ownership by the provisions of either subdivision (f) of Section 62 or subdivision (b) of Section 65, unless the transferor qualifies as an original transferor under subdivision (b) of Section 65. In the case of any purchase or transfer subject to this paragraph involving two or more eligible transferors, the transferors may elect to combine their separate one-million-dollar ($1,000,000) exclusions and, upon making that election, the combined amount of their separate exclusions shall apply to any property jointly sold or transferred by the electing transferors, provided that in no case shall the amount of full cash value of real property of any one eligible transferor excluded under this election exceed the amount of the transferor's separate unused exclusion on the date of the joint sale or transfer.

(c) As used in this section:

(1) "Purchase or transfer between parents and their children" means either a transfer from a parent or parents to a child or children of the parent or parents or a transfer from a child or children to a parent or parents of the child or children. For purposes of this section, the date of any transfer between parents and their children under a will or intestate succession shall be the date of the decedent's death, if the decedent died on or after November 6, 1986.

(2) "Purchase or transfer of real property between grandparents and their grandchild or grandchildren" means a purchase or transfer on or after March 27, 1996, from a grandparent or grandparents to a grandchild or grandchildren if all of the parents of that grandchild or those grandchildren who qualify as the children of the grandparents are deceased as of the date of the transfer. For purposes of this section, the date of any transfer between grandparents and their grandchildren under a will or by intestate succession shall be the date of the decedent's death. Notwithstanding any other provision of law, for the lien date for the 2006–07 fiscal year and each fiscal year thereafter, in determining whether "all of the parents of that grandchild or those grandchildren, who qualify as the children of the grandparents, are deceased as of the date of purchase or transfer," a son-in-law or daughter-in-law of the grandparent that is a stepparent to the grandchild need not be deceased on the date of the transfer.

(3) "Children" means any of the following:

(A) Any child born of the parent or parents, except a child, as defined in subparagraph (D), who has been adopted by another person or persons.

(B) Any stepchild of the parent or parents and the spouse of that stepchild while the relationship of stepparent and stepchild exists. For purposes of this paragraph, the relationship of stepparent and stepchild shall be deemed to exist until the marriage on which the relationship is based is terminated by divorce, or, if the relationship is terminated by death, until the remarriage of the surviving stepparent.

(C) Any son-in-law or daughter-in-law of the parent or parents. For the purposes of this paragraph, the relationship of parent and son-in-law or daughter-in-law shall be deemed to exist until the marriage on which the relationship is based is terminated by divorce, or, if the relationship is terminated by death, until the remarriage of the surviving son-in-law or daughter-in-law.

(D) Any child adopted by the parent or parents pursuant to statute, other than an individual adopted after reaching the age of 18 years.

(4) "Grandchild" or "grandchildren" means any child or children of the child or children of the grandparent or grandparents.

(5) "Full cash value" means full cash value, as defined in Section 2 of Article XIII A of the California Constitution and Section 110.1, with

any adjustments authorized by those sections, and the full value of any new construction in progress, determined as of the date immediately prior to the date of a purchase by or transfer to an eligible transferee of real property subject to this section.

(6) "Eligible transferor" means a grandparent, parent, or child of an eligible transferee.

(7) "Eligible transferee" means a parent, child, or grandchild of an eligible transferor.

(8) "Real property" means real property as defined in Section 104. Real property does not include any interest in a legal entity.

(9) "Transfer" includes, and is not limited to, any transfer of the present beneficial ownership of property from an eligible transferor to an eligible transferee through the medium of an inter vivos or testamentary trust.

(10) "Social security number" also includes a taxpayer identification number issued by the Internal Revenue Service in the case in which the taxpayer is a foreign national who cannot obtain a social security number.

(d) (1) The exclusions provided for in subdivision (a) shall not be allowed unless the eligible transferee, the transferee's legal representative, or the executor or administrator of the transferee's estate files a claim with the assessor for the exclusion sought and furnishes to the assessor each of the following:

(A) A written certification by the transferee, the transferee's legal representative, or the executor or administrator of the transferee's estate, signed and made under penalty of perjury that the transferee is a parent, child, or grandchild of the transferor and that the transferor is his or her parent, child, or grandparent. In the case of a grandparent-grandchild transfer, the written certification shall also include a certification that all the parents of the grandchild or grandchildren who qualify as children of the grandparents were deceased as of the date of the purchase or transfer and that the grandchild or grandchildren did or did not receive a principal residence excludable under paragraph (1) of subdivision (a) from the deceased parents, and that the grandchild or grandchildren did or did not receive real property other than a principal residence excludable under paragraph (2) of subdivision (a) from the deceased parents. The claimant shall provide legal substantiation of any matter certified pursuant to this subparagraph at the request of the county assessor.

(B) A written certification by the transferor, the transferor's legal representative, or the executor or administrator of the transferor's estate, signed and made under penalty of perjury that the transferor is a grandparent, parent, or child of the transferee and that the transferor is

seeking the exclusion under this section and will not file a claim to transfer the base year value of the property under Section 69.5.

(C) A written certification shall also include either or both of the following:

(i) If the purchase or transfer of real property includes the purchase or transfer of residential real property, a certification that the residential real property is or is not the transferor's principal residence.

(ii) If the purchase or transfer of real property includes the purchase or transfer of real property other than the transferor's principal residence, a certification that other real property of the transferor that is subject to this section has or has not been previously sold or transferred to an eligible transferee, the total amount of full cash value, as defined in subdivision (c), of any real property subject to this section that has been previously sold or transferred by that transferor to eligible transferees, the location of that real property, the social security number of each eligible transferor, and the names of the eligible transferees of that property.

(D) If there are multiple transferees, the certification and signature may be made by any one of the transferees, if both of the following conditions are met:

(i) The transferee has actual knowledge that, and the certification signed by the transferee states that, all of the transferees are eligible transferees within the meaning of this section.

(ii) The certification is signed by the transferee as a true statement made under penalty of perjury.

(2) If the full cash value of the real property purchased by or transferred to the transferee exceeds the permissible exclusion of the transferor or the combined permissible exclusion of the transferors, in the case of a purchase or transfer from two or more joint transferors, taking into account any previous purchases by or transfers to an eligible transferee from the same transferor or transferors, the transferee shall specify in his or her claim the amount and the allocation of the exclusion he or she is seeking. Within any appraisal unit, as determined in accordance with subdivision (d) of Section 51 by the assessor of the county in which the real property is located, the exclusion shall be applied only on a pro rata basis, however, and shall not be applied to a selected portion or portions of the appraisal unit.

(e) (1) The State Board of Equalization shall design the form for claiming eligibility. Except as provided in paragraph (2), any claim under this section shall be filed:

(A) For transfers of real property between parents and their children occurring prior to September 30, 1990, within three years after the date of the purchase or transfer of real property for which the claim is filed.

(B) For transfers of real property between parents and their children occurring on or after September 30, 1990, and for the purchase or transfer of real property between grandparents and their grandchildren occurring on or after March 27, 1996, within three years after the date of the purchase or transfer of real property for which the claim is filed, or prior to transfer of the real property to a third party, whichever is earlier.

(C) Notwithstanding subparagraphs (A) and (B), a claim shall be deemed to be timely filed if it is filed within six months after the date of mailing of a notice of supplemental or escape assessment, issued as a result of the purchase or transfer of real property for which the claim is filed.

(2) In the case in which the real property subject to purchase or transfer has not been transferred to a third party, a claim for exclusion under this section that is filed subsequent to the expiration of the filing periods set forth in paragraph (1) shall be considered by the assessor, subject to all of the following conditions:

(A) Any exclusion granted pursuant to that claim shall apply commencing with the lien date of the assessment year in which the claim is filed.

(B) Under any exclusion granted pursuant to that claim, the adjusted full cash value of the subject real property in the assessment year described in subparagraph (A) shall be the adjusted base year value of the subject real property in the assessment year in which the excluded purchase or transfer took place, factored to the assessment year described in subparagraph (A) for both of the following:

(i) Inflation as annually determined in accordance with paragraph (1) of subdivision (a) of Section 51.

(ii) Any subsequent new construction occurring with respect to the subject real property.

(3) (A) Unless otherwise expressly provided, the provisions of this subdivision shall apply to any purchase or transfer of real property that occurred on or after November 6, 1986.

(B) Paragraph (2) shall apply to purchases or transfers between parents and their children that occurred on or after November 6, 1986, and to purchases or transfers between grandparents and their grandchildren that occurred on or after March 27, 1996.

(4) For purposes of this subdivision, a transfer of real property to a parent or child of the transferor shall not be considered a transfer to a third party.

(f) The assessor may report quarterly to the State Board of Equalization all purchases or transfers, other than purchases or transfers involving a principal residence, for which a claim for exclusion is made pursuant to subdivision (d). Each report shall contain the assessor's

parcel number for each parcel for which the exclusion is claimed, the amount of each exclusion claimed, the social security number of each eligible transferor, and any other information the board may require in order to monitor the one-million-dollar ($1,000,000) limitation in paragraph (2) of subdivision (a). In recognition of the state and local interests served by the action made optional in this subdivision, the Legislature encourages the assessor to continue taking the action formerly mandated by this subdivision.

(g) This section shall apply to both voluntary transfers and transfers resulting from a court order or judicial decree. Nothing in this subdivision shall be construed as conflicting with paragraph (1) of subdivision (c) or the general principle that transfers by reason of death occur at the time of death.

(h) (1) Except as provided in paragraph (2), this section shall apply to purchases and transfers of real property completed on or after November 6, 1986, and shall not be effective for any change in ownership, including a change in ownership arising on the date of a decedent's death, that occurred prior to that date.

(2) This section shall apply to purchases or transfers of real property between grandparents and their grandchildren occurring on or after March 27, 1996, and, with respect to purchases or transfers of real property between grandparents and their grandchildren, shall not be effective for any change in ownership, including a change in ownership arising on the date of a decedent's death, that occurred prior to that date.

(i) A claim filed under this section is not a public document and is not subject to public inspection, except that a claim shall be available for inspection by the transferee and the transferor or their respective spouse, the transferee's legal representative, the transferor's legal representative, and the executor or administrator of the transferee's or transferor's estate.

SEC. 2. Section 69.5 of the Revenue and Taxation Code is amended to read:

69.5. (a) (1) Notwithstanding any other provision of law, pursuant to subdivision (a) of Section 2 of Article XIII A of the California Constitution, any person over the age of 55 years, or any severely and permanently disabled person, who resides in property that is eligible for the homeowners' exemption under subdivision (k) of Section 3 of Article XIII of the California Constitution and Section 218 may transfer, subject to the conditions and limitations provided in this section, the base year value of that property to any replacement dwelling of equal or lesser value that is located within the same county and is purchased or newly constructed by that person as his or her principal residence within two years of the sale by that person of the original property, provided that

the base year value of the original property shall not be transferred to the replacement dwelling until the original property is sold.

(2) Notwithstanding the limitation in paragraph (1) requiring that the original property and the replacement dwelling be located in the same county, this limitation shall not apply in any county in which the county board of supervisors, after consultation with local affected agencies within the boundaries of the county, adopts an ordinance making the provisions of paragraph (1) also applicable to situations in which replacement dwellings are located in that county and the original properties are located in another county within this state. The authorization contained in this paragraph shall be applicable in a county only if the ordinance adopted by the board of supervisors complies with all of the following requirements:

(A) It is adopted only after consultation between the board of supervisors and all other local affected agencies within the county's boundaries.

(B) It requires that all claims for transfers of base year value from original property located in another county be granted if the claims meet the applicable requirements of both subdivision (a) of Section 2 of Article XIII A of the California Constitution and this section.

(C) It requires that all base year valuations of original property located in another county and determined by its assessor be accepted in connection with the granting of claims for transfers of base year value.

(D) It provides that its provisions are operative for a period of not less than five years.

(E) The ordinance specifies the date on and after which its provisions shall be applicable. However, the date specified shall not be earlier than November 9, 1988. The specified applicable date may be a date earlier than the date the county adopts the ordinance.

(b) In addition to meeting the requirements of subdivision (a), any person claiming the property tax relief provided by this section shall be eligible for that relief only if the following conditions are met:

(1) The claimant is an owner and a resident of the original property either at the time of its sale, or at the time when the original property was substantially damaged or destroyed by misfortune or calamity, or within two years of the purchase or new construction of the replacement dwelling.

(2) The original property is eligible for the homeowners' exemption, as the result of the claimant's ownership and occupation of the property as his or her principal residence, either at the time of its sale, or at the time when the original property was substantially damaged or destroyed by misfortune or calamity, or within two years of the purchase or new construction of the replacement dwelling.

(3) At the time of the sale of the original property, the claimant or the claimant's spouse who resides with the claimant is at least 55 years of age, or is severely and permanently disabled.

(4) At the time of claiming the property tax relief provided by subdivision (a), the claimant is an owner of a replacement dwelling and occupies it as his or her principal place of residence and, as a result thereof, the property is currently eligible for the homeowners' exemption or would be eligible for the exemption except that the property is already receiving the exemption because of an exemption claim filed by the previous owner.

(5) The original property of the claimant is sold by him or her within two years of the purchase or new construction of the replacement dwelling. For purposes of this paragraph, the purchase or new construction of the replacement dwelling includes the purchase of that portion of land on which the replacement building, structure, or other shelter constituting a place of abode of the claimant will be situated and that, pursuant to paragraph (3) of subdivision (g), constitutes a part of the replacement dwelling.

(6) The replacement dwelling, including that portion of land on which it is situated that is specified in paragraph (5), is located entirely within the same county as the claimant's original property.

(7) The claimant has not previously been granted, as a claimant, the property tax relief provided by this section, except that this paragraph shall not apply to any person who becomes severely and permanently disabled subsequent to being granted, as a claimant, the property tax relief provided by this section for any person over the age of 55 years. In order to prevent duplication of claims under this section within this state, county assessors shall report quarterly to the State Board of Equalization that information from claims filed in accordance with subdivision (f) and from county records as is specified by the board necessary to identify fully all claims under this section allowed by assessors and all claimants who have thereby received relief. The board may specify that the information include all or a part of the names and social security numbers of claimants and their spouses and the identity and location of the replacement dwelling to which the claim applies. The information may be required in the form of data processing media or other media and in a format that is compatible with the recordkeeping processes of the counties and the auditing procedures of the state.

(c) The property tax relief provided by this section shall be available if the original property or the replacement dwelling, or both, of the claimant includes, but is not limited to, either of the following:

(1) A unit or lot within a cooperative housing corporation, a community apartment project, a condominium project, or a planned unit

development. If the unit or lot constitutes the original property of the claimant, the assessor shall transfer to the claimant's replacement dwelling only the base year value of the claimant's unit or lot and his or her share in any common area reserved as an appurtenance of that unit or lot. If the unit or lot constitutes the replacement dwelling of the claimant, the assessor shall transfer the base year value of the claimant's original property only to the unit or lot of the claimant and any share of the claimant in any common area reserved as an appurtenance of that unit or lot.

(2) A manufactured home or a manufactured home and any land owned by the claimant on which the manufactured home is situated. For purposes of this paragraph, "land owned by the claimant" includes a pro rata interest in a resident-owned mobilehome park that is assessed pursuant to subdivision (b) of Section 62.1.

(A) If the manufactured home or the manufactured home and the land on which it is situated constitutes the claimant's original property, the assessor shall transfer to the claimant's replacement dwelling either the base year value of the manufactured home or the base year value of the manufactured home and the land on which it is situated, as appropriate. If the manufactured home dwelling that constitutes the original property of the claimant includes an interest in a resident-owned mobilehome park, the assessor shall transfer to the claimant's replacement dwelling the base year value of the claimant's manufactured home and his or her pro rata portion of the real property of the park. No transfer of base year value shall be made by the assessor of that portion of land that does not constitute a part of the original property, as provided in paragraph (4) of subdivision (g).

(B) If the manufactured home or the manufactured home and the land on which it is situated constitutes the claimant's replacement dwelling, the assessor shall transfer the base year value of the claimant's original property either to the manufactured home or the manufactured home and the land on which it is situated, as appropriate. If the manufactured home dwelling that constitutes the replacement dwelling of the claimant includes an interest in a resident-owned mobilehome park, the assessor shall transfer the base year value of the claimant's original property to the manufactured home of the claimant and his or her pro rata portion of the park. No transfer of base year value shall be made by the assessor to that portion of land that does not constitute a part of the replacement dwelling, as provided in paragraph (3) of subdivision (g).

This subdivision shall be subject to the limitations specified in subdivision (d).

(d) The property tax relief provided by this section shall be available to a claimant who is the coowner of the original property, as a joint

tenant, a tenant in common, or a community property owner, subject to the following limitations:

(1) If a single replacement dwelling is purchased or newly constructed by all of the coowners and each coowner retains an interest in the replacement dwelling, the claimant shall be eligible under this section whether or not any or all of the remaining coowners would otherwise be eligible claimants.

(2) If two or more replacement dwellings are separately purchased or newly constructed by two or more coowners and more than one coowner would otherwise be an eligible claimant, only one coowner shall be eligible under this section. These coowners shall determine by mutual agreement which one of them shall be deemed eligible.

(3) If two or more replacement dwellings are separately purchased or newly constructed by two coowners who held the original property as community property, only the coowner who has attained the age of 55 years, or is severely and permanently disabled, shall be eligible under this section. If both spouses are over 55 years of age, they shall determine by mutual agreement which one of them is eligible.

In the case of coowners whose original property is a multiunit dwelling, the limitations imposed by paragraphs (2) and (3) shall only apply to coowners who occupied the same dwelling unit within the original property at the time specified in paragraph (2) of subdivision (b).

(e) Upon the sale of original property, the assessor shall determine a new base year value for that property in accordance with subdivision (a) of Section 2 of Article XIII A of the California Constitution and Section 110.1, whether or not a replacement dwelling is subsequently purchased or newly constructed by the former owner or owners of the original property.

This section shall not apply unless the transfer of the original property is a change in ownership that either (1) subjects that property to reappraisal at its current fair market value in accordance with Section 110.1 or 5803 or (2) results in a base year value determined in accordance with this section, Section 69, or Section 69.3 because the property qualifies under this section, Section 69, or Section 69.3 as a replacement dwelling or property.

(f) (1) A claimant shall not be eligible for the property tax relief provided by this section unless the claimant provides to the assessor, on a form that shall be designed by the State Board of Equalization and that the assessor shall make available upon request, the following information:

(A) The name and social security number of each claimant and of any spouse of the claimant who is a record owner of the replacement dwelling.

(B) Proof that the claimant or the claimant's spouse who resided on the original property with the claimant was, at the time of its sale, at least 55 years of age, or severely and permanently disabled. Proof of severe and permanent disability shall be considered a certification, signed by a licensed physician and surgeon of appropriate specialty, attesting to the claimant's severely and permanently disabled condition. In the absence of available proof that a person is over 55 years of age, the claimant shall certify under penalty of perjury that the age requirement is met. In the case of a severely and permanently disabled claimant either of the following shall be submitted:

(i) A certification, signed by a licensed physician or surgeon of appropriate specialty that identifies specific reasons why the disability necessitates a move to the replacement dwelling and the disability-related requirements, including any locational requirements, of a replacement dwelling. The claimant shall substantiate that the replacement dwelling meets disability-related requirements so identified and that the primary reason for the move to the replacement dwelling is to satisfy those requirements. If the claimant, or the claimant's spouse or guardian, so declares under penalty of perjury, it shall be rebuttably presumed that the primary purpose of the move to the replacement dwelling is to satisfy identified disability-related requirements.

(ii) The claimant's substantiation that the primary purpose of the move to the replacement dwelling is to alleviate financial burdens caused by the disability. If the claimant, or the claimant's spouse or guardian, so declares under penalty of perjury, it shall be rebuttably presumed that the primary purpose of the move is to alleviate the financial burdens caused by the disability.

(C) The address and, if known, the assessor's parcel number of the original property.

(D) The date of the claimant's sale of the original property and the date of the claimant's purchase or new construction of a replacement dwelling.

(E) A statement by the claimant that he or she occupied the replacement dwelling as his or her principal place of residence on the date of the filing of his or her claim.

(F) Any claim under this section shall be filed within three years of the date the replacement dwelling was purchased or the new construction of the replacement dwelling was completed subject to subdivision (k) or (m).

(2) A claim for transfer of base year value under this section that is filed after the expiration of the filing period set forth in subparagraph (F) of paragraph (1) shall be considered by the assessor, subject to all of the following conditions:

(A) Any base year value transfer granted pursuant to that claim shall apply commencing with the lien date of the assessment year in which the claim is filed.

(B) The full cash value of the replacement property in the assessment year described in subparagraph (A) shall be the base year value of the real property in the assessment year in which the base year value was transferred, factored to the assessment year described in subparagraph (A) for both of the following:

(i) Inflation as annually determined in accordance with paragraph (1) of subdivision (a) of Section 51.

(ii) Any subsequent new construction occurring with respect to the subject real property that does not qualify for property tax relief pursuant to the criteria set forth in subparagraphs (A) and (B) of paragraph (4) of subdivision (h).

(g) For purposes of this section:

(1) "Person over the age of 55 years" means any person or the spouse of any person who has attained the age of 55 years or older at the time of the sale of the original property.

(2) "Base year value of the original property" means its base year value, as determined in accordance with Section 110.1, with the adjustments permitted by subdivision (b) of Section 2 of Article XIII A of the California Constitution and subdivision (f) of Section 110.1, determined as of the date immediately prior to the date that the original property is sold by the claimant, or in the case where the original property has been substantially damaged or destroyed by misfortune or calamity and the owner does not rebuild on the original property, determined as of the date immediately prior to the misfortune or calamity.

If the replacement dwelling is purchased or newly constructed after the transfer of the original property, "base year value of the original property" also includes any inflation factor adjustments permitted by subdivision (f) of Section 110.1 for the period subsequent to the sale of the original property. The base year or years used to compute the "base year value of the original property" shall be deemed to be the base year or years of any property to which that base year value is transferred pursuant to this section.

(3) "Replacement dwelling" means a building, structure, or other shelter constituting a place of abode, whether real property or personal property, that is owned and occupied by a claimant as his or her principal place of residence, and any land owned by the claimant on which the building, structure, or other shelter is situated. For purposes of this paragraph, land constituting a part of a replacement dwelling includes only that area of reasonable size that is used as a site for a residence, and "land owned by the claimant" includes land for which the claimant

either holds a leasehold interest described in subdivision (c) of Section 61 or a land purchase contract. Each unit of a multiunit dwelling shall be considered a separate replacement dwelling. For purposes of this paragraph, "area of reasonable size that is used as a site for a residence" includes all land if any nonresidential uses of the property are only incidental to the use of the property as a residential site. For purposes of this paragraph, "land owned by the claimant" includes an ownership interest in a resident-owned mobilehome park that is assessed pursuant to subdivision (b) of Section 62.1.

(4) "Original property" means a building, structure, or other shelter constituting a place of abode, whether real property or personal property, that is owned and occupied by a claimant as his or her principal place of residence, and any land owned by the claimant on which the building, structure, or other shelter is situated. For purposes of this paragraph, land constituting a part of the original property includes only that area of reasonable size that is used as a site for a residence, and "land owned by the claimant" includes land for which the claimant either holds a leasehold interest described in subdivision (c) of Section 61 or a land purchase contract. Each unit of a multiunit dwelling shall be considered a separate original property. For purposes of this paragraph, "area of reasonable size that is used as a site for a residence" includes all land if any nonresidential uses of the property are only incidental to the use of the property as a residential site. For purposes of this paragraph, "land owned by the claimant" includes an ownership interest in a resident-owned mobilehome park that is assessed pursuant to subdivision (b) of Section 62.1.

(5) "Equal or lesser value" means that the amount of the full cash value of a replacement dwelling does not exceed one of the following:

(A) One hundred percent of the amount of the full cash value of the original property if the replacement dwelling is purchased or newly constructed prior to the date of the sale of the original property.

(B) One hundred and five percent of the amount of the full cash value of the original property if the replacement dwelling is purchased or newly constructed within the first year following the date of the sale of the original property.

(C) One hundred and ten percent of the amount of the full cash value of the original property if the replacement dwelling is purchased or newly constructed within the second year following the date of the sale of the original property.

For the purposes of this paragraph, except as otherwise provided in paragraph (4) of subdivision (h), if the replacement dwelling is, in part, purchased and, in part, newly constructed, the date the "replacement

dwelling is purchased or newly constructed" is the date of purchase or the date of completion of construction, whichever is later.

(6) "Full cash value of the replacement dwelling" means its full cash value, determined in accordance with Section 110.1, as of the date on which it was purchased or new construction was completed, and after the purchase or the completion of new construction.

(7) "Full cash value of the original property" means, either:

(A) Its new base year value, determined in accordance with subdivision (e), without the application of subdivision (h) of Section 2 of Article XIII A of the California Constitution, plus the adjustments permitted by subdivision (b) of Section 2 of Article XIII A and subdivision (f) of Section 110.1 for the period from the date of its sale by the claimant to the date on which the replacement property was purchased or new construction was completed.

(B) In the case where the original property has been substantially damaged or destroyed by misfortune or calamity and the owner does not rebuild on the original property, its full cash value, as determined in accordance with Section 110, immediately prior to its substantial damage or destruction by misfortune or calamity, as determined by the county assessor of the county in which the property is located, without the application of subdivision (h) of Section 2 of Article XIII A of the California Constitution, plus the adjustments permitted by subdivision (b) of Section 2 of Article XIII A and subdivision (f) of Section 110.1, for the period from the date of its sale by the claimant to the date on which the replacement property was purchased or new construction was completed.

(8) "Sale" means any change in ownership of the original property for consideration.

(9) "Claimant" means any person claiming the property tax relief provided by this section. If a spouse of that person is a record owner of the replacement dwelling, the spouse is also a claimant for purposes of determining whether in any future claim filed by the spouse under this section the condition of eligibility specified in paragraph (7) of subdivision (b) has been met.

(10) "Property that is eligible for the homeowners' exemption" includes property that is the principal place of residence of its owner and is entitled to exemption pursuant to Section 205.5.

(11) "Person" means any individual, but does not include any firm, partnership, association, corporation, company, or other legal entity or organization of any kind.

(12) "Severely and permanently disabled" means any person described in subdivision (b) of Section 74.3.

(13) For the purposes of this section property is "substantially damaged or destroyed by misfortune or calamity" if it sustains physical damage amounting to more than 50 percent of its full cash value immediately prior to the misfortune or calamity. Damage includes a diminution in the value of property as a result of restricted access to the property where the restricted access was caused by the misfortune or calamity and is permanent in nature.

(h) (1) Upon the timely filing of a claim described in subparagraph (F) of paragraph (1) of subdivision (f), the assessor shall adjust the new base year value of the replacement dwelling in conformity with this section. This adjustment shall be made as of the latest of the following dates:

(A) The date the original property is sold.

(B) The date the replacement dwelling is purchased.

(C) The date the new construction of the replacement dwelling is completed.

(2) Any taxes that were levied on the replacement dwelling prior to the filing of the claim on the basis of the replacement dwelling's new base year value, and any allowable annual adjustments thereto, shall be canceled or refunded to the claimant to the extent that the taxes exceed the amount that would be due when determined on the basis of the adjusted new base year value.

(3) Notwithstanding Section 75.10, Chapter 3.5 (commencing with Section 75) shall be utilized for purposes of implementing this subdivision, including adjustments of the new base year value of replacement dwellings acquired prior to the sale of the original property.

(4) In the case where a claim under this section has been timely filed and granted, and new construction is performed upon the replacement dwelling subsequent to the transfer of base year value, the property tax relief provided by this section also shall apply to the replacement dwelling, as improved, and thus there shall be no reassessment upon completion of the new construction if both of the following conditions are met:

(A) The new construction is completed within two years of the date of the sale of the original property and the owner notifies the assessor in writing of completion of the new construction within 30 days after completion.

(B) The fair market value of the new construction on the date of completion, plus the full cash value of the replacement dwelling on the date of acquisition, is not more than the full cash value of the original property as determined pursuant to paragraph (7) of subdivision (g) for purposes of granting the original claim.

(i) Any claimant may rescind a claim for the property tax relief provided by this section and shall not be considered to have received that relief for purposes of paragraph (7) of subdivision (b), and the assessor shall grant the rescission, if a written notice of rescission is delivered to the office of the assessor as follows:

(1) A written notice of rescission signed by the original filing claimant or claimants is delivered to the office of the assessor in which the original claim was filed.

(2) (A) Except as otherwise provided in this paragraph, the notice of rescission is delivered to the office of the assessor before the date that the county first issues, as a result of relief granted under this section, a refund check for property taxes imposed upon the replacement dwelling. If granting relief will not result in a refund of property taxes, then the notice shall be delivered before payment is first made of any property taxes, or any portion thereof, imposed upon the replacement dwelling consistent with relief granted under this section. If payment of the taxes is not made, then notice shall be delivered before the first date that those property taxes, or any portion thereof, imposed upon the replacement dwelling, consistent with relief granted under this section, are delinquent.

(B) Notwithstanding any other provision in this division, any time the notice of rescission is delivered to the office of the assessor within six years after relief was granted, provided that the replacement property has been vacated as the claimant's principal place of residence within 90 days after the original claim was filed, regardless of whether the property continues to receive the homeowners' exemption. If the rescission increases the base year value of a property, or the homeowners' exemption has been incorrectly allowed, appropriate escape assessments or supplemental assessments, including interest as provided in Section 506, shall be imposed. The limitations periods for any escape assessments or supplemental assessments shall not commence until July 1 of the assessment year in which the notice of rescission is delivered to the office of the assessor.

(3) The notice is accompanied by the payment of a fee as the assessor may require, provided that the fee shall not exceed an amount reasonably related to the estimated cost of processing a rescission claim, including both direct costs and developmental and indirect costs, such as costs for overhead, personnel, supplies, materials, office space, and computers.

(j) (1) With respect to the transfer of base year value of original properties to replacement dwellings located in the same county, this section, except as provided in paragraph (3) or (4), shall apply to any replacement dwelling that is purchased or newly constructed on or after November 6, 1986.

(2) With respect to the transfer of base year value of original properties to replacement dwellings located in different counties, except as provided in paragraph (4), this section shall apply to any replacement dwelling that is purchased or newly constructed on or after the date specified in accordance with subparagraph (E) of paragraph (2) of subdivision (a) in the ordinance of the county in which the replacement dwelling is located, but shall not apply to any replacement dwelling which was purchased or newly constructed before November 9, 1988.

(3) With respect to the transfer of base year value by a severely and permanently disabled person, this section shall apply only to replacement dwellings that are purchased or newly constructed on or after June 6, 1990.

(4) The amendments made to subdivision (e) by the act adding this paragraph shall apply only to replacement dwellings under Section 69 that are acquired or newly constructed on or after October 20, 1991, and shall apply commencing with the 1991–92 fiscal year.

(k) (1) In the case in which a county adopts an ordinance pursuant to paragraph (2) of subdivision (a) that establishes an applicable date which is more than three years prior to the date of adoption of the ordinance, those potential claimants who purchased or constructed replacement dwellings more than three years prior to the date of adoption of the ordinance and who would, therefore, be precluded from filing a timely claim, shall be deemed to have timely filed a claim if the claim is filed within three years after the date that the ordinance is adopted. This paragraph may not be construed as a waiver of any other requirement of this section.

(2) In the case in which a county assessor corrects a base year value to reflect a pro rata change in ownership of a resident-owned mobilehome park that occurred between January 1, 1989, and January 1, 2002, pursuant to paragraph (4) of subdivision (b) of Section 62.1, those claimants who purchased or constructed replacement dwellings more than three years prior to the correction and who would, therefore, be precluded from filing a timely claim, shall be deemed to have timely filed a claim if the claim is filed within three years of the date of notice of the correction of the base year value to reflect the pro rata change in ownership. This paragraph may not be construed as a waiver of any other requirement of this section.

(3) This subdivision does not apply to a claimant who has transferred his or her replacement dwelling prior to filing a claim.

(4) The property tax relief provided by this section, but filed under this subdivision, shall apply prospectively only, commencing with the lien date of the assessment year in which the claim is filed. There shall

be no refund or cancellation of taxes prior to the date that the claim is filed.

(*l*) No escape assessment may be levied if a transfer of base year value under this section has been erroneously granted by the assessor pursuant to an expired ordinance authorizing intercounty transfers of base year value.

(m) (1) The amendments made to subdivisions (b) and (g) of this section by Chapter 613 of the Statutes of 2001 shall apply:

(A) With respect to the transfer of base year value of original properties to replacement dwellings located in the same county, to any replacement dwelling that is purchased or newly constructed on or after November 6, 1986.

(B) With respect to the transfer of base year value of original properties to replacement dwellings located in different counties, to any replacement dwelling that is purchased or newly constructed on or after the date specified in accordance with subparagraph (E) of paragraph (2) of subdivision (a) in the ordinance of the county in which the replacement dwelling is located, but not to any replacement dwelling that was purchased or newly constructed before November 9, 1988.

(C) With respect to the transfer of base year value by a severely and permanently disabled person, to replacement dwellings that are purchased or newly constructed on or after June 6, 1990.

(2) The property tax relief provided by this section in accordance with this subdivision shall apply prospectively only commencing with the lien date of the assessment year in which the claim is filed. There shall be no refund or cancellation of taxes prior to the date that the claim is filed.

(n) A claim filed under this section is not a public document and is not subject to public inspection, except that a claim shall be available for inspection by the claimant or the claimant's spouse, the claimant's or the claimant's spouse's legal representative, the trustee of a trust in which the claimant or the claimant's spouse is a present beneficiary, and the executor or administrator of the claimant's or the claimant's spouse's estate.

SEC. 3. Section 215.1 of the Revenue and Taxation Code is amended to read:

215.1. (a) All buildings, and so much of the real property on which the buildings are situated as may be required for the convenient use and occupation of the buildings, used exclusively for charitable purposes, owned by a veterans' organization which has been chartered by the Congress of the United States, organized and operated for charitable purposes, when the same are used solely and exclusively for the purpose of the organization, if not conducted for profit and no part of the net

earnings of which inures to the benefit of any private individual or member thereof, shall be exempt from taxation.

(b) The exemption provided for in this section shall apply to the property of all organizations meeting the requirements of this section and subdivision (b) of Section 4 of Article XIII of the California Constitution and paragraphs (1) to (7), inclusive, of subdivision (a) of Section 214.

(c) An organization that files a claim for the exemption provided for in this section shall file with the assessor a valid organizational clearance certificate issued pursuant to Section 254.6.

(d) This exemption shall be known as the "veterans' organization exemption."

SEC. 4. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

CHAPTER 450

An act to amend Section 63.1 of, and to add Section 480.8 to, the Revenue and Taxation Code, relating to taxation.

[Approved by Governor October 10, 2007. Filed with Secretary of State October 10, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 63.1 of the Revenue and Taxation Code is amended to read:

63.1. (a) Notwithstanding any other provision of this chapter, a change in ownership shall not include the following purchases or transfers for which a claim is filed pursuant to this section:

(1) (A) The purchase or transfer of real property which is the principal residence of an eligible transferor in the case of a purchase or transfer between parents and their children.

(B) A purchase or transfer of a principal residence from a foster child to the child's biological parent shall not be excluded under subparagraph (A) if the transferor child received that principal residence, or interest therein, from a foster parent through a purchase or transfer that was excluded under subparagraph (A).

(2) The purchase or transfer of the first one million dollars ($1,000,000) of full cash value of all other real property of an eligible transferor in the case of a purchase or transfer between parents and their children.

(3) (A) Subject to subparagraph (B), the purchase or transfer of real property described in paragraphs (1) and (2) of subdivision (a) occurring on or after March 27, 1996, between grandparents and their grandchild or grandchildren, if all of the parents of that grandchild or those grandchildren, who qualify as the children of the grandparents, are deceased as of the date of purchase or transfer. Notwithstanding any other provision of law, for the lien date for the 2006–07 fiscal year and each fiscal year thereafter, in determining whether "all of the parents of that grandchild or those grandchildren, who qualify as the children of the grandparents, are deceased as of the date of purchase or transfer," a son-in-law or daughter-in-law of the grandparent that is a stepparent to the grandchild need not be deceased on the date of the transfer.

(B) A purchase or transfer of a principal residence shall not be excluded pursuant to subparagraph (A) if the transferee grandchild or grandchildren also received a principal residence, or interest therein, through another purchase or transfer that was excludable pursuant to paragraph (1) of subdivision (a). The full cash value of any real property, other than a principal residence, that was transferred to the grandchild or grandchildren pursuant to a purchase or transfer that was excludable pursuant to paragraph (2) of subdivision (a) and the full cash value of a principal residence that fails to qualify for exclusion as a result of the preceding sentence shall be included in applying, for purposes of paragraph (2) of subdivision (a), the one-million-dollar ($1,000,000) full cash value limit specified in paragraph (2) of subdivision (a).

(b) (1) For purposes of paragraph (1) of subdivision (a), "principal residence" means a dwelling for which a homeowners' exemption or a disabled veterans' residence exemption has been granted in the name of the eligible transferor. "Principal residence" includes only that portion of the land underlying the principal residence that consists of an area of reasonable size that is used as a site for the residence.

(2) For purposes of paragraph (2) of subdivision (a), the one-million-dollar ($1,000,000) exclusion shall apply separately to each eligible transferor with respect to all purchases by and transfers to eligible transferees on and after November 6, 1986, of real property, other than the principal residence, of that eligible transferor. The exclusion shall not apply to any property in which the eligible transferor's interest was received through a transfer, or transfers, excluded from change in ownership by the provisions of either subdivision (f) of Section 62 or subdivision (b) of Section 65, unless the transferor qualifies as an original

transferor under subdivision (b) of Section 65. In the case of any purchase or transfer subject to this paragraph involving two or more eligible transferors, the transferors may elect to combine their separate one-million-dollar ($1,000,000) exclusions and, upon making that election, the combined amount of their separate exclusions shall apply to any property jointly sold or transferred by the electing transferors, provided that in no case shall the amount of full cash value of real property of any one eligible transferor excluded under this election exceed the amount of the transferor's separate unused exclusion on the date of the joint sale or transfer.

(c) As used in this section:

(1) "Purchase or transfer between parents and their children" means either a transfer from a parent or parents to a child or children of the parent or parents or a transfer from a child or children to a parent or parents of the child or children. For purposes of this section, the date of any transfer between parents and their children under a will or intestate succession shall be the date of the decedent's death, if the decedent died on or after November 6, 1986.

(2) "Purchase or transfer of real property between grandparents and their grandchild or grandchildren" means a purchase or transfer on or after March 27, 1996, from a grandparent or grandparents to a grandchild or grandchildren if all of the parents of that grandchild or those grandchildren who qualify as the children of the grandparents are deceased as of the date of the transfer. For purposes of this section, the date of any transfer between grandparents and their grandchildren under a will or by intestate succession shall be the date of the decedent's death. Notwithstanding any other provision of law, for the lien date for the 2006–07 fiscal year and each fiscal year thereafter, in determining whether "all of the parents of that grandchild or those grandchildren, who qualify as the children of the grandparents, are deceased as of the date of purchase or transfer," a son-in-law or daughter-in-law of the grandparent that is a stepparent to the grandchild need not be deceased on the date of the transfer.

(3) "Children" means any of the following:

(A) Any child born of the parent or parents, except a child, as defined in subparagraph (D), who has been adopted by another person or persons.

(B) Any stepchild of the parent or parents and the spouse of that stepchild while the relationship of stepparent and stepchild exists. For purposes of this paragraph, the relationship of stepparent and stepchild shall be deemed to exist until the marriage on which the relationship is based is terminated by divorce, or, if the relationship is terminated by death, until the remarriage of the surviving stepparent.

(C) Any son-in-law or daughter-in-law of the parent or parents. For the purposes of this paragraph, the relationship of parent and son-in-law or daughter-in-law shall be deemed to exist until the marriage on which the relationship is based is terminated by divorce, or, if the relationship is terminated by death, until the remarriage of the surviving son-in-law or daughter-in-law.

(D) Any child adopted by the parent or parents pursuant to statute, other than an individual adopted after reaching the age of 18 years.

(E) Any foster child of a state-licensed foster parent, if that child was not, because of a legal barrier, adopted by the foster parent or foster parents before the child aged out of the foster care system. For purposes of this paragraph, the relationship between a foster child and foster parent shall be deemed to exist until terminated by death. However, for purposes of a transfer that occurs on the date of death, the relationship shall be deemed to exist on the date of death.

(4) "Grandchild" or "grandchildren" means any child or children of the child or children of the grandparent or grandparents.

(5) "Full cash value" means full cash value, as defined in Section 2 of Article XIII A of the California Constitution and Section 110.1, with any adjustments authorized by those sections, and the full value of any new construction in progress, determined as of the date immediately prior to the date of a purchase by or transfer to an eligible transferee of real property subject to this section.

(6) "Eligible transferor" means a grandparent, parent, or child of an eligible transferee.

(7) "Eligible transferee" means a parent, child, or grandchild of an eligible transferor.

(8) "Real property" means real property as defined in Section 104. Real property does not include any interest in a legal entity.

(9) "Transfer" includes, and is not limited to, any transfer of the present beneficial ownership of property from an eligible transferor to an eligible transferee through the medium of an inter vivos or testamentary trust.

(10) "Social security number" also includes a taxpayer identification number issued by the Internal Revenue Service in the case in which the taxpayer is a foreign national who cannot obtain a social security number.

(d) (1) The exclusions provided for in subdivision (a) shall not be allowed unless the eligible transferee, the transferee's legal representative, or the executor or administrator of the transferee's estate files a claim with the assessor for the exclusion sought and furnishes to the assessor each of the following:

(A) A written certification by the transferee, the transferee's legal representative, or the executor or administrator of the transferee's estate,

signed and made under penalty of perjury that the transferee is a grandparent, parent, child, or grandchild of the transferor and that the transferor is his or her parent, child, or grandparent. In the case of a grandparent-grandchild transfer, the written certification shall also include a certification that all the parents of the grandchild or grandchildren who qualify as children of the grandparents were deceased as of the date of the purchase or transfer and that the grandchild or grandchildren did or did not receive a principal residence excludable under paragraph (1) of subdivision (a) from the deceased parents, and that the grandchild or grandchildren did or did not receive real property other than a principal residence excludable under paragraph (2) of subdivision (a) from the deceased parents. The claimant shall provide legal substantiation of any matter certified pursuant to this subparagraph at the request of the county assessor.

(B) A written certification by the transferor, the transferor's legal representative, or the executor or administrator of the transferor's estate, signed and made under penalty of perjury that the transferor is a grandparent, parent, or child of the transferee and that the transferor is seeking the exclusion under this section and will not file a claim to transfer the base year value of the property under Section 69.5.

(C) A written certification shall also include either or both of the following:

(i) If the purchase or transfer of real property includes the purchase or transfer of residential real property, a certification that the residential real property is or is not the transferor's principal residence.

(ii) If the purchase or transfer of real property includes the purchase or transfer of real property other than the transferor's principal residence, a certification that other real property of the transferor that is subject to this section has or has not been previously sold or transferred to an eligible transferee, the total amount of full cash value, as defined in subdivision (c), of any real property subject to this section that has been previously sold or transferred by that transferor to eligible transferees, the location of that real property, the social security number of each eligible transferor, and the names of the eligible transferees of that property.

(D) If there are multiple transferees, the certification and signature may be made by any one of the transferees, if both of the following conditions are met:

(i) The transferee has actual knowledge that, and the certification signed by the transferee states that, all of the transferees are eligible transferees within the meaning of this section.

(ii) The certification is signed by the transferee as a true statement made under penalty of perjury.

(E) In the case of a transfer between a foster parent and foster child, the claim filed with the assessor shall include a certified copy of the court decision regarding the foster child status of the individual and a certified statement from the appropriate county agency stating that the foster child was not, because of a legal barrier, adopted by the foster parent or foster parents. Upon a request by the county assessor, the claimant also shall provide to the assessor legal substantiation of any matter certified under this subparagraph.

(2) If the full cash value of the real property purchased by or transferred to the transferee exceeds the permissible exclusion of the transferor or the combined permissible exclusion of the transferors, in the case of a purchase or transfer from two or more joint transferors, taking into account any previous purchases by or transfers to an eligible transferee from the same transferor or transferors, the transferee shall specify in his or her claim the amount and the allocation of the exclusion he or she is seeking. Within any appraisal unit, as determined in accordance with subdivision (d) of Section 51 by the assessor of the county in which the real property is located, the exclusion shall be applied only on a pro rata basis, however, and shall not be applied to a selected portion or portions of the appraisal unit.

(e) (1) The State Board of Equalization shall design the form for claiming eligibility. Except as provided in paragraph (2), any claim under this section shall be filed:

(A) For transfers of real property between parents and their children occurring prior to September 30, 1990, within three years after the date of the purchase or transfer of real property for which the claim is filed.

(B) For transfers of real property between parents and their children occurring on or after September 30, 1990, and for the purchase or transfer of real property between grandparents and their grandchildren occurring on or after March 27, 1996, within three years after the date of the purchase or transfer of real property for which the claim is filed, or prior to transfer of the real property to a third party, whichever is earlier.

(C) Notwithstanding subparagraphs (A) and (B), a claim shall be deemed to be timely filed if it is filed within six months after the date of mailing of a notice of supplemental or escape assessment, issued as a result of the purchase or transfer of real property for which the claim is filed.

(2) In the case in which the real property subject to purchase or transfer has not been transferred to a third party, a claim for exclusion under this section that is filed subsequent to the expiration of the filing periods set forth in paragraph (1) shall be considered by the assessor, subject to all of the following conditions:

(A) Any exclusion granted pursuant to that claim shall apply commencing with the lien date of the assessment year in which the claim is filed.

(B) Under any exclusion granted pursuant to that claim, the adjusted full cash value of the subject real property in the assessment year described in subparagraph (A) shall be the adjusted base year value of the subject real property in the assessment year in which the excluded purchase or transfer took place, factored to the assessment year described in subparagraph (A) for both of the following:

(i) Inflation as annually determined in accordance with paragraph (1) of subdivision (a) of Section 51.

(ii) Any subsequent new construction occurring with respect to the subject real property.

(3) (A) Unless otherwise expressly provided, the provisions of this subdivision shall apply to any purchase or transfer of real property that occurred on or after November 6, 1986.

(B) Paragraph (2) shall apply to purchases or transfers between parents and their children that occurred on or after November 6, 1986, and to purchases or transfers between grandparents and their grandchildren that occurred on or after March 27, 1996.

(4) For purposes of this subdivision, a transfer of real property to a parent or child of the transferor shall not be considered a transfer to a third party.

(f) The assessor may report quarterly to the State Board of Equalization all purchases or transfers, other than purchases or transfers involving a principal residence, for which a claim for exclusion is made pursuant to subdivision (d). Each report shall contain the assessor's parcel number for each parcel for which the exclusion is claimed, the amount of each exclusion claimed, the social security number of each eligible transferor, and any other information the board may require in order to monitor the one-million-dollar ($1,000,000) limitation in paragraph (2) of subdivision (a). In recognition of the state and local interests served by the action made optional in this subdivision, the Legislature encourages the assessor to continue taking the action formerly mandated by this subdivision.

(g) This section shall apply to both voluntary transfers and transfers resulting from a court order or judicial decree. Nothing in this subdivision shall be construed as conflicting with paragraph (1) of subdivision (c) or the general principle that transfers by reason of death occur at the time of death.

(h) (1) Except as provided in paragraph (2), this section shall apply to purchases and transfers of real property completed on or after November 6, 1986, and shall not be effective for any change in

ownership, including a change in ownership arising on the date of a decedent's death, that occurred prior to that date.

(2) This section shall apply to purchases or transfers of real property between grandparents and their grandchildren occurring on or after March 27, 1996, and, with respect to purchases or transfers of real property between grandparents and their grandchildren, shall not be effective for any change in ownership, including a change in ownership arising on the date of a decedent's death, that occurred prior to that date.

(i) A claim filed under this section is not a public document and is not subject to public inspection, except that a claim shall be available for inspection by the transferee and the transferor or their respective spouse, the transferee's legal representative, the transferor's legal representative, and the executor or administrator of the transferee's or transferor's estate.

SEC. 1.5. Section 63.1 of the Revenue and Taxation Code is amended to read:

63.1. (a) Notwithstanding any other provision of this chapter, a change in ownership shall not include the following purchases or transfers for which a claim is filed pursuant to this section:

(1) (A) The purchase or transfer of real property which is the principal residence of an eligible transferor in the case of a purchase or transfer between parents and their children.

(B) A purchase or transfer of a principal residence from a foster child to the child's biological parent shall not be excluded under subparagraph (A) if the transferor child received that principal residence, or interest therein, from a foster parent through a purchase or transfer that was excluded under subparagraph (A).

(2) The purchase or transfer of the first one million dollars ($1,000,000) of full cash value of all other real property of an eligible transferor in the case of a purchase or transfer between parents and their children.

(3) (A) Subject to subparagraph (B), the purchase or transfer of real property described in paragraphs (1) and (2) of subdivision (a) occurring on or after March 27, 1996, between grandparents and their grandchild or grandchildren, if all of the parents of that grandchild or those grandchildren, who qualify as the children of the grandparents, are deceased as of the date of purchase or transfer. Notwithstanding any other provision of law, for the lien date for the 2006–07 fiscal year and each fiscal year thereafter, in determining whether "all of the parents of that grandchild or those grandchildren, who qualify as the children of the grandparents, are deceased as of the date of purchase or transfer," a son-in-law or daughter-in-law of the grandparent that is a stepparent to the grandchild need not be deceased on the date of the transfer.

(B) A purchase or transfer of a principal residence shall not be excluded pursuant to subparagraph (A) if the transferee grandchild or grandchildren also received a principal residence, or interest therein, through another purchase or transfer that was excludable pursuant to paragraph (1) of subdivision (a). The full cash value of any real property, other than a principal residence, that was transferred to the grandchild or grandchildren pursuant to a purchase or transfer that was excludable pursuant to paragraph (2) of subdivision (a) and the full cash value of a principal residence that fails to qualify for exclusion as a result of the preceding sentence shall be included in applying, for purposes of paragraph (2) of subdivision (a), the one-million-dollar ($1,000,000) full cash value limit specified in paragraph (2) of subdivision (a).

(b) (1) For purposes of paragraph (1) of subdivision (a), "principal residence" means a dwelling that is eligible for a homeowners' exemption or a disabled veterans' exemption as a result of the transferor's ownership and occupation of the dwelling. "Principal residence" includes only that portion of the land underlying the residence that consists of an area of reasonable size that is used as a site for the residence.

(2) For purposes of paragraph (2) of subdivision (a), the one-million-dollar ($1,000,000) exclusion shall apply separately to each eligible transferor with respect to all purchases by and transfers to eligible transferees on and after November 6, 1986, of real property, other than the principal residence, of that eligible transferor. The exclusion shall not apply to any property in which the eligible transferor's interest was received through a transfer, or transfers, excluded from change in ownership by the provisions of either subdivision (f) of Section 62 or subdivision (b) of Section 65, unless the transferor qualifies as an original transferor under subdivision (b) of Section 65. In the case of any purchase or transfer subject to this paragraph involving two or more eligible transferors, the transferors may elect to combine their separate one-million-dollar ($1,000,000) exclusions and, upon making that election, the combined amount of their separate exclusions shall apply to any property jointly sold or transferred by the electing transferors, provided that in no case shall the amount of full cash value of real property of any one eligible transferor excluded under this election exceed the amount of the transferor's separate unused exclusion on the date of the joint sale or transfer.

(c) As used in this section:

(1) "Purchase or transfer between parents and their children" means either a transfer from a parent or parents to a child or children of the parent or parents or a transfer from a child or children to a parent or parents of the child or children. For purposes of this section, the date of any transfer between parents and their children under a will or intestate

succession shall be the date of the decedent's death, if the decedent died on or after November 6, 1986.

(2) "Purchase or transfer of real property between grandparents and their grandchild or grandchildren" means a purchase or transfer on or after March 27, 1996, from a grandparent or grandparents to a grandchild or grandchildren if all of the parents of that grandchild or those grandchildren who qualify as the children of the grandparents are deceased as of the date of the transfer. For purposes of this section, the date of any transfer between grandparents and their grandchildren under a will or by intestate succession shall be the date of the decedent's death. Notwithstanding any other provision of law, for the lien date for the 2006–07 fiscal year and each fiscal year thereafter, in determining whether "all of the parents of that grandchild or those grandchildren, who qualify as the children of the grandparents, are deceased as of the date of purchase or transfer," a son-in-law or daughter-in-law of the grandparent that is a stepparent to the grandchild need not be deceased on the date of the transfer.

(3) "Children" means any of the following:

(A) Any child born of the parent or parents, except a child, as defined in subparagraph (D), who has been adopted by another person or persons.

(B) Any stepchild of the parent or parents and the spouse of that stepchild while the relationship of stepparent and stepchild exists. For purposes of this paragraph, the relationship of stepparent and stepchild shall be deemed to exist until the marriage on which the relationship is based is terminated by divorce, or, if the relationship is terminated by death, until the remarriage of the surviving stepparent.

(C) Any son-in-law or daughter-in-law of the parent or parents. For the purposes of this paragraph, the relationship of parent and son-in-law or daughter-in-law shall be deemed to exist until the marriage on which the relationship is based is terminated by divorce, or, if the relationship is terminated by death, until the remarriage of the surviving son-in-law or daughter-in-law.

(D) Any child adopted by the parent or parents pursuant to statute, other than an individual adopted after reaching the age of 18 years.

(E) Any foster child of a state-licensed foster parent, if that child was not, because of a legal barrier, adopted by the foster parent or foster parents before the child aged out of the foster care system. For purposes of this paragraph, the relationship between a foster child and foster parent shall be deemed to exist until terminated by death. However, for purposes of a transfer that occurs on the date of death, the relationship shall be deemed to exist on the date of death.

(4) "Grandchild" or "grandchildren" means any child or children of the child or children of the grandparent or grandparents.

(5) "Full cash value" means full cash value, as defined in Section 2 of Article XIII A of the California Constitution and Section 110.1, with any adjustments authorized by those sections, and the full value of any new construction in progress, determined as of the date immediately prior to the date of a purchase by or transfer to an eligible transferee of real property subject to this section.

(6) "Eligible transferor" means a grandparent, parent, or child of an eligible transferee.

(7) "Eligible transferee" means a parent, child, or grandchild of an eligible transferor.

(8) "Real property" means real property as defined in Section 104. Real property does not include any interest in a legal entity.

(9) "Transfer" includes, and is not limited to, any transfer of the present beneficial ownership of property from an eligible transferor to an eligible transferee through the medium of an inter vivos or testamentary trust.

(10) "Social security number" also includes a taxpayer identification number issued by the Internal Revenue Service in the case in which the taxpayer is a foreign national who cannot obtain a social security number.

(d) (1) The exclusions provided for in subdivision (a) shall not be allowed unless the eligible transferee, the transferee's legal representative, or the executor or administrator of the transferee's estate files a claim with the assessor for the exclusion sought and furnishes to the assessor each of the following:

(A) A written certification by the transferee, the transferee's legal representative, or the executor or administrator of the transferee's estate, signed and made under penalty of perjury that the transferee is a parent, child, or grandchild of the transferor and that the transferor is his or her parent, child, or grandparent. In the case of a grandparent-grandchild transfer, the written certification shall also include a certification that all the parents of the grandchild or grandchildren who qualify as children of the grandparents were deceased as of the date of the purchase or transfer and that the grandchild or grandchildren did or did not receive a principal residence excludable under paragraph (1) of subdivision (a) from the deceased parents, and that the grandchild or grandchildren did or did not receive real property other than a principal residence excludable under paragraph (2) of subdivision (a) from the deceased parents. The claimant shall provide legal substantiation of any matter certified pursuant to this subparagraph at the request of the county assessor.

(B) A written certification by the transferor, the transferor's legal representative, or the executor or administrator of the transferor's estate, signed and made under penalty of perjury that the transferor is a

grandparent, parent, or child of the transferee and that the transferor is seeking the exclusion under this section and will not file a claim to transfer the base year value of the property under Section 69.5.

(C) A written certification shall also include either or both of the following:

(i) If the purchase or transfer of real property includes the purchase or transfer of residential real property, a certification that the residential real property is or is not the transferor's principal residence.

(ii) If the purchase or transfer of real property includes the purchase or transfer of real property other than the transferor's principal residence, a certification that other real property of the transferor that is subject to this section has or has not been previously sold or transferred to an eligible transferee, the total amount of full cash value, as defined in subdivision (c), of any real property subject to this section that has been previously sold or transferred by that transferor to eligible transferees, the location of that real property, the social security number of each eligible transferor, and the names of the eligible transferees of that property.

(D) If there are multiple transferees, the certification and signature may be made by any one of the transferees, if both of the following conditions are met:

(i) The transferee has actual knowledge that, and the certification signed by the transferee states that, all of the transferees are eligible transferees within the meaning of this section.

(ii) The certification is signed by the transferee as a true statement made under penalty of perjury.

(E) In the case of a transfer between a foster parent and foster child, the claim filed with the assessor shall include a certified copy of the court decision regarding the foster child status of the individual and a certified statement from the appropriate county agency stating that the foster child was not, because of a legal barrier, adopted by the foster parent or foster parents. Upon a request by the county assessor, the claimant also shall provide to the assessor legal substantiation of any matter certified under this subparagraph.

(2) If the full cash value of the real property purchased by or transferred to the transferee exceeds the permissible exclusion of the transferor or the combined permissible exclusion of the transferors, in the case of a purchase or transfer from two or more joint transferors, taking into account any previous purchases by or transfers to an eligible transferee from the same transferor or transferors, the transferee shall specify in his or her claim the amount and the allocation of the exclusion he or she is seeking. Within any appraisal unit, as determined in accordance with subdivision (d) of Section 51 by the assessor of the

county in which the real property is located, the exclusion shall be applied only on a pro rata basis, however, and shall not be applied to a selected portion or portions of the appraisal unit.

(e) (1) The State Board of Equalization shall design the form for claiming eligibility. Except as provided in paragraph (2), any claim under this section shall be filed:

(A) For transfers of real property between parents and their children occurring prior to September 30, 1990, within three years after the date of the purchase or transfer of real property for which the claim is filed.

(B) For transfers of real property between parents and their children occurring on or after September 30, 1990, and for the purchase or transfer of real property between grandparents and their grandchildren occurring on or after March 27, 1996, within three years after the date of the purchase or transfer of real property for which the claim is filed, or prior to transfer of the real property to a third party, whichever is earlier.

(C) Notwithstanding subparagraphs (A) and (B), a claim shall be deemed to be timely filed if it is filed within six months after the date of mailing of a notice of supplemental or escape assessment, issued as a result of the purchase or transfer of real property for which the claim is filed.

(2) In the case in which the real property subject to purchase or transfer has not been transferred to a third party, a claim for exclusion under this section that is filed subsequent to the expiration of the filing periods set forth in paragraph (1) shall be considered by the assessor, subject to all of the following conditions:

(A) Any exclusion granted pursuant to that claim shall apply commencing with the lien date of the assessment year in which the claim is filed.

(B) Under any exclusion granted pursuant to that claim, the adjusted full cash value of the subject real property in the assessment year described in subparagraph (A) shall be the adjusted base year value of the subject real property in the assessment year in which the excluded purchase or transfer took place, factored to the assessment year described in subparagraph (A) for both of the following:

(i) Inflation as annually determined in accordance with paragraph (1) of subdivision (a) of Section 51.

(ii) Any subsequent new construction occurring with respect to the subject real property.

(3) (A) Unless otherwise expressly provided, the provisions of this subdivision shall apply to any purchase or transfer of real property that occurred on or after November 6, 1986.

(B) Paragraph (2) shall apply to purchases or transfers between parents and their children that occurred on or after November 6, 1986, and to

purchases or transfers between grandparents and their grandchildren that occurred on or after March 27, 1996.

(4) For purposes of this subdivision, a transfer of real property to a parent or child of the transferor shall not be considered a transfer to a third party.

(f) The assessor may report quarterly to the State Board of Equalization all purchases or transfers, other than purchases or transfers involving a principal residence, for which a claim for exclusion is made pursuant to subdivision (d). Each report shall contain the assessor's parcel number for each parcel for which the exclusion is claimed, the amount of each exclusion claimed, the social security number of each eligible transferor, and any other information the board may require in order to monitor the one-million-dollar ($1,000,000) limitation in paragraph (2) of subdivision (a). In recognition of the state and local interests served by the action made optional in this subdivision, the Legislature encourages the assessor to continue taking the action formerly mandated by this subdivision.

(g) This section shall apply to both voluntary transfers and transfers resulting from a court order or judicial decree. Nothing in this subdivision shall be construed as conflicting with paragraph (1) of subdivision (c) or the general principle that transfers by reason of death occur at the time of death.

(h) (1) Except as provided in paragraph (2), this section shall apply to purchases and transfers of real property completed on or after November 6, 1986, and shall not be effective for any change in ownership, including a change in ownership arising on the date of a decedent's death, that occurred prior to that date.

(2) This section shall apply to purchases or transfers of real property between grandparents and their grandchildren occurring on or after March 27, 1996, and, with respect to purchases or transfers of real property between grandparents and their grandchildren, shall not be effective for any change in ownership, including a change in ownership arising on the date of a decedent's death, that occurred prior to that date.

(i) A claim filed under this section is not a public document and is not subject to public inspection, except that a claim shall be available for inspection by the transferee and the transferor or their respective spouse, the transferee's legal representative, the transferor's legal representative, and the executor or administrator of the transferee's or transferor's estate.

SEC. 2. Section 480.8 is added to the Revenue and Taxation Code, to read:

480.8. (a) (1) For purposes of complying with the change in ownership provisions of Section 65.1 and subdivision (i) of Section 61,

upon a written request of the county assessor, the owners of a cooperative housing corporation, community apartment project, condominium, planned unit development, or other residential subdivision complex with common areas or facilities in which units or lots are transferred without the use of recorded deeds, shall file an ownership report on or before the first February 1 that follows an assessor request, and on or before each February 1 thereafter. The ownership report shall include all of the following information:

(A) The full name and mailing address of each owner, stockholder, or holder of an ownership interest in the property and a copy of the stock certificate, or other document that evidences an interest in the unit or lot. Copies of stock certificates and other documents evidencing an interest in an individual unit or lot that were provided to the county assessor in a previous ownership report are not required to be provided in subsequent ownership reports.

(B) The situs address, including the number, of each unit or lot.

(C) The date that an ownership interest in the property was acquired and the acquisition price of that interest.

(2) The ownership report described in paragraph (1) applies to units or lots of residential property for which the individual units or lots consist of dwellings that could be eligible for homeowners' exemption if occupied as a principal place of residence.

(b) (1) If the ownership report request described in subdivision (a) is not complied with, the assessor may send a change in ownership statement to every owner, tenant-shareholder, or occupant of each individual unit or lot. If the assessor sends a change in ownership statement pursuant to this paragraph, a notice shall be included with that statement informing occupants who do not have an ownership interest in the unit or lot to forward the statement to the owner or shareholder of the unit or lot.

(2) Failure to file the change in ownership statement described in paragraph (1) shall result in the penalty described in subdivision (a) of Section 482 for each individual unit or lot whose owner or shareholder fails to independently file the change in ownership statement.

SEC. 3. Section 1.5 of this bill incorporates amendments to Section 63.1 of the Revenue and Taxation Code proposed by this bill and SB 1045. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2008, (2) each bill amends Section 63.1 of the Revenue and Taxation Code, and (3) this bill is enacted after SB 1045, in which case Section 63.1 of the Revenue and Taxation Code, as amended by SB 1045, shall remain operative only until the operative date of this bill, at which time Section 1.5 of this bill

shall become operative, and Section 1 of this bill shall not become operative.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because, in that regard, this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

SEC. 5. Notwithstanding Section 2229 of the Revenue and Taxation Code, no appropriation is made by this act and the state shall not reimburse any local agency for any property tax revenues lost by it pursuant to this act.

CHAPTER 451

An act to add Section 24617 to the Vehicle Code, relating to vehicles.

[Approved by Governor October 10, 2007. Filed with Secretary of State October 10, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 24617 is added to the Vehicle Code, to read:

24617. (a) A transit bus may be authorized to be equipped with a yield right-of-way sign on the left rear of the bus. The yield right-of-way sign may flash simultaneously with the rear turn signal lamps, but is not required to do so. The sign shall be both of the following:

(1) Designed to warn a person operating a motor vehicle approaching the rear of the bus that the bus is entering traffic.

(2) Illuminated by a red flashing light when the bus is signaling in preparation for entering a traffic lane after having stopped to receive or discharge passengers.

(b) Nothing in this section requires a transit agency to install the yield right-of-way sign described in subdivision (a).

(c) This section does not relieve the driver of a transit bus from the duty to drive the bus with due regard for the safety of all persons and property. This section does not exempt the driver of a transit bus from the requirements of Section 21804.

(d) This section applies only to the Santa Cruz Metropolitan Transit District and the Santa Clara Valley Transportation Authority, if the governing board of the applicable district approves a resolution, after a public hearing on the issue, requesting that this section be made applicable to it.

(e) Each participating transit agency shall undertake a public education program to encourage motorists to yield to a transit bus when the sign specified in subdivision (a) is activiated.

SEC. 2. The Legislature finds and declares that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of unique circumstances of community familiarity with the program in Section 1, applicable only to the Santa Cruz Metropolitan Transit District and the Santa Clara County Transit District.

CHAPTER 452

An act to amend Sections 4776, and 40002.1 of, and to repeal and add Section 40002 to, the Vehicle Code, relating to vehicles.

[Approved by Governor October 10, 2007. Filed with Secretary of State October 10, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 4766 of the Vehicle Code is amended to read:

4766. (a) Except as provided in subdivisions (b) and (c), the department shall refuse to renew the registration of a vehicle for which a notice of noncompliance has been transmitted to the department pursuant to subdivision (a) of Section 40002.1 if no certificate of adjudication has been received by the department pursuant to subdivision (b) of that section. The department shall include on each potential registration card issued for use at the time of renewal, or on an accompanying document, an itemization of citations for which notices of noncompliance have been received by the department pursuant to subdivision (a) of Section 40002.1. The itemization shall include the citation number, citation date, and the jurisdiction that issued the underlying notice pursuant to Section 40002 and the administrative

service fee for clearing the offense pursuant to subdivision (b) of this section.

(b) Upon application for renewal of vehicle registration for a vehicle subject to subdivision (a), the department shall not refuse registration renewal pursuant to subdivision (a) if the applicant, with respect to each outstanding certificate of noncompliance, has performed both of the following:

(1) Provides the department with a certificate of adjudication for the offense issued pursuant to subdivision (b) of Section 40002. 1.

(2) Pays an administrative service charge, which shall be established by the department to, in the aggregate, defray its costs in administering this section.

(c) Whenever registration of a vehicle subject to subdivision (a) is transferred or not renewed for two renewal periods, the department shall so notify each court which transmitted a notice of noncompliance affecting the vehicle and the department shall not thereafter refuse registration renewal pursuant to subdivision (a).

SEC. 2. Section 40002 of the Vehicle Code is repealed.

SEC. 3. Section 40002 is added to the Vehicle Code, to read:

40002. (a) (1) When there is a violation of Section 40001, an owner or any other person subject to Section 40001, who was not driving the vehicle involved in the violation, may be mailed a written notice to appear. An exact and legible duplicate copy of that notice when filed with the court, in lieu of a verified complaint, is a complaint to which the defendant may plead "guilty".

(2) If, however, the defendant fails to appear in court or does not deposit lawful bail, or pleads other than "guilty" of the offense charged, a verified complaint shall be filed which shall be deemed to be an original complaint, and thereafter proceedings shall be had as provided by law, except that a defendant may, by an agreement in writing, subscribed by the defendant and filed with the court, waive the filing of a verified complaint and elect that the prosecution may proceed upon a written notice to appear.

(3) A verified complaint pursuant to paragraph (2) shall include a paragraph that informs the person that unless he or she appears in the court designated in the complaint within 21 days after being given the complaint and answers the charge, renewal of registration of the vehicle involved in the offense may be precluded by the department, or a warrant of arrest may be issued against him or her.

(b) (1) If a person mailed a notice to appear pursuant to paragraph (1) of subdivision (a) fails to appear in court or deposit bail, a warrant of arrest shall not be issued based on the notice to appear, even if that notice is verified. An arrest warrant may only be issued after a verified

complaint pursuant to paragraph (2) of subdivision (a) is given the person and the person fails to appear in court to answer that complaint.

(2) If a person mailed a notice to appear pursuant to paragraph (1) of subdivision (a) fails to appear in court or deposit bail, the court may give by mail to the person a notice of noncompliance. A notice of noncompliance shall include a paragraph that informs the person that unless he or she appears in the court designated in the notice to appear within 21 days after being given by mail the notice of noncompliance and answers the charge on the notice to appear, or pays the applicable fine and penalties if an appearance is not required, renewal of registration of the vehicle involved in the offense may be precluded by the department.

(c) A verified complaint filed pursuant to this section shall conform to Chapter 2 (commencing with Section 948) of Title 5 of Part 2 of the Penal Code.

(d) (1) The giving my mail of a notice to appear pursuant to paragraph (1) of subdivision (a) or a notice of noncompliance pursuant to paragraph(2) of subdivision (b) shall be done in a manner prescribed by Section 22.

(2) The verified complaint pursuant to paragraph (2) of subdivision (a) shall be given in a manner prescribed by Section 22.

SEC. 4. Section 40002.1 of the Vehicle Code is amended to read:

40002.1. (a) Whenever a person has failed to appear in the court designated in the notice to appear or a verified complaint specified in Section 40002, following personal service of the notice of noncompliance or deposit in the mail pursuant to Section 22, the magistrate or clerk of the court may give notice of that fact to the department.

(b) Whenever the matter is adjudicated, including a dismissal of the charges upon forfeiture of bail or otherwise, the magistrate or clerk of the court hearing the matter shall immediately do all of the following:

(1) Endorse a certificate to that effect.

(2) Provide the person or the person's attorney with a copy of the certificate.

(3) Transmit a copy of the certificate to the department.

(c) A notice of noncompliance shall not be transmitted to the department pursuant to subdivision (a) if a warrant of arrest has been issued on the same offense pursuant to subdivision (b) of Section 40002. A warrant of arrest shall not be issued pursuant to subdivision (b) of Section 40002 if a notice of noncompliance has been transmitted to the department on the same offense pursuant to this section, except that, when a notice has been received by the court pursuant to subdivision (c)

of Section 4766 or recalled by motion of the court, a warrant may then be issued.

CHAPTER 453

An act to amend Section 22651 of the Vehicle Code, relating to vehicles.

[Approved by Governor October 10, 2007. Filed with Secretary of State October 10, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 22651 of the Vehicle Code is amended to read:

22651. A peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, or a regularly employed and salaried employee, who is engaged in directing traffic or enforcing parking laws and regulations, of a city, county, or jurisdiction of a state agency in which a vehicle is located, may remove a vehicle located within the territorial limits in which the officer or employee may act, under the following circumstances:

(a) When a vehicle is left unattended upon a bridge, viaduct, or causeway or in a tube or tunnel where the vehicle constitutes an obstruction to traffic.

(b) When a vehicle is parked or left standing upon a highway in a position so as to obstruct the normal movement of traffic or in a condition so as to create a hazard to other traffic upon the highway.

(c) When a vehicle is found upon a highway or public land and a report has previously been made that the vehicle is stolen or a complaint has been filed and a warrant thereon is issued charging that the vehicle is embezzled.

(d) When a vehicle is illegally parked so as to block the entrance to a private driveway and it is impractical to move the vehicle from in front of the driveway to another point on the highway.

(e) When a vehicle is illegally parked so as to prevent access by firefighting equipment to a fire hydrant and it is impracticable to move the vehicle from in front of the fire hydrant to another point on the highway.

(f) When a vehicle, except highway maintenance or construction equipment, is stopped, parked, or left standing for more than four hours upon the right-of-way of a freeway that has full control of access and

no crossings at grade and the driver, if present, cannot move the vehicle under its own power.

(g) When the person in charge of a vehicle upon a highway or public land is, by reason of physical injuries or illness, incapacitated to an extent so as to be unable to provide for its custody or removal.

(h) (1) When an officer arrests a person driving or in control of a vehicle for an alleged offense and the officer is, by this code or other law, required or permitted to take, and does take, the person into custody.

(2) When an officer serves a notice of an order of suspension or revocation pursuant to Section 13388.

(i) (1) When a vehicle, other than a rented vehicle, is found upon a highway or public land, or is removed pursuant to this code, and it is known that the vehicle has been issued five or more notices of parking violations to which the owner or person in control of the vehicle has not responded within 21 calendar days of notice of citation issuance or citation issuance or 14 calendar days of the mailing of a notice of delinquent parking violation to the agency responsible for processing notices of parking violation or the registered owner of the vehicle is known to have been issued five or more notices for failure to pay or failure to appear in court for traffic violations for which a certificate has not been issued by the magistrate or clerk of the court hearing the case showing that the case has been adjudicated or concerning which the registered owner's record has not been cleared pursuant to Chapter 6 (commencing with Section 41500) of Division 17, the vehicle may be impounded until that person furnishes to the impounding law enforcement agency all of the following:

(A) Evidence of his or her identity.

(B) An address within this state at which he or she can be located.

(C) Satisfactory evidence that all parking penalties due for the vehicle and all other vehicles registered to the registered owner of the impounded vehicle, and all traffic violations of the registered owner, have been cleared.

(2) The requirements in subparagraph (C) of paragraph (1) shall be fully enforced by the impounding law enforcement agency on and after the time that the Department of Motor Vehicles is able to provide access to the necessary records.

(3) A notice of parking violation issued for an unlawfully parked vehicle shall be accompanied by a warning that repeated violations may result in the impounding of the vehicle. In lieu of furnishing satisfactory evidence that the full amount of parking penalties or bail has been deposited, that person may demand to be taken without unnecessary delay before a magistrate, for traffic offenses, or a hearing examiner, for parking offenses, within the county in which the offenses charged are

alleged to have been committed and who has jurisdiction of the offenses and is nearest or most accessible with reference to the place where the vehicle is impounded. Evidence of current registration shall be produced after a vehicle has been impounded, or, at the discretion of the impounding law enforcement agency, a notice to appear for violation of subdivision (a) of Section 4000 shall be issued to that person.

(4) A vehicle shall be released to the legal owner, as defined in Section 370, if the legal owner does all of the following:

(A) Pays the cost of towing and storing the vehicle.

(B) Submits evidence of payment of fees as provided in Section 9561.

(C) Completes an affidavit in a form acceptable to the impounding law enforcement agency stating that the vehicle was not in possession of the legal owner at the time of occurrence of the offenses relating to standing or parking. A vehicle released to a legal owner under this subdivision is a repossessed vehicle for purposes of disposition or sale. The impounding agency shall have a lien on any surplus that remains upon sale of the vehicle to which the registered owner is or may be entitled, as security for the full amount of the parking penalties for all notices of parking violations issued for the vehicle and for all local administrative charges imposed pursuant to Section 22850.5. The legal owner shall promptly remit to, and deposit with, the agency responsible for processing notices of parking violations from that surplus, on receipt of that surplus, the full amount of the parking penalties for all notices of parking violations issued for the vehicle and for all local administrative charges imposed pursuant to Section 22850.5.

(5) The impounding agency that has a lien on the surplus that remains upon the sale of a vehicle to which a registered owner is entitled pursuant to paragraph (4) has a deficiency claim against the registered owner for the full amount of the parking penalties for all notices of parking violations issued for the vehicle and for all local administrative charges imposed pursuant to Section 22850.5, less the amount received from the sale of the vehicle.

(j) When a vehicle is found illegally parked and there are no license plates or other evidence of registration displayed, the vehicle may be impounded until the owner or person in control of the vehicle furnishes the impounding law enforcement agency evidence of his or her identity and an address within this state at which he or she can be located.

(k) When a vehicle is parked or left standing upon a highway for 72 or more consecutive hours in violation of a local ordinance authorizing removal.

(*l*) When a vehicle is illegally parked on a highway in violation of a local ordinance forbidding standing or parking and the use of a highway, or a portion thereof, is necessary for the cleaning, repair, or construction

of the highway, or for the installation of underground utilities, and signs giving notice that the vehicle may be removed are erected or placed at least 24 hours prior to the removal by local authorities pursuant to the ordinance.

(m) Wherever the use of the highway, or a portion of the highway, is authorized by local authorities for a purpose other than the normal flow of traffic or for the movement of equipment, articles, or structures of unusual size, and the parking of a vehicle would prohibit or interfere with that use or movement, and signs giving notice that the vehicle may be removed are erected or placed at least 24 hours prior to the removal by local authorities pursuant to the ordinance.

(n) Whenever a vehicle is parked or left standing where local authorities, by resolution or ordinance, have prohibited parking and have authorized the removal of vehicles. A vehicle may not be removed unless signs are posted giving notice of the removal.

(o) (1) When a vehicle is found or operated upon a highway, public land, or an offstreet parking facility under the following circumstances:

(A) With a registration expiration date in excess of six months before the date it is found or operated on the highway, public lands, or the offstreet parking facility.

(B) Displaying in, or upon, the vehicle, a registration card, identification card, temporary receipt, license plate, special plate, registration sticker, device issued pursuant to Section 4853, or permit that was not issued for that vehicle, or is not otherwise lawfully used on that vehicle under this code.

(C) Displaying in, or upon, the vehicle, an altered, forged, counterfeit, or falsified registration card, identification card, temporary receipt, license plate, special plate, registration sticker, device issued pursuant to Section 4853, or permit.

(2) When a vehicle described in paragraph (1) is occupied, only a peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, may remove the vehicle.

(3) For the purposes of this subdivision, the vehicle shall be released to the owner or person in control of the vehicle only after the owner or person furnishes the storing law enforcement agency with proof of current registration and a currently valid driver's license to operate the vehicle.

(4) As used in this subdivision, "offstreet parking facility" means an offstreet facility held open for use by the public for parking vehicles and includes any publicly owned facilities for offstreet parking, and privately owned facilities for offstreet parking where a fee is not charged for the privilege to park and which are held open for the common public use of retail customers.

(p) When the peace officer issues the driver of a vehicle a notice to appear for a violation of Section 12500, 14601, 14601.1, 14601.2, 14601.3, 14601.4, 14601.5, or 14604 and the vehicle is not impounded pursuant to Section 22655.5. A vehicle so removed from the highway or public land, or from private property after having been on a highway or public land, shall not be released to the registered owner or his or her agent, except upon presentation of the registered owner's or his or her agent's currently valid driver's license to operate the vehicle and proof of current vehicle registration, or upon order of a court.

(q) Whenever a vehicle is parked for more than 24 hours on a portion of highway that is located within the boundaries of a common interest development, as defined in subdivision (c) of Section 1351 of the Civil Code, and signs, as required by Section 22658.2, have been posted on that portion of highway providing notice to drivers that vehicles parked thereon for more than 24 hours will be removed at the owner's expense, pursuant to a resolution or ordinance adopted by the local authority.

(r) When a vehicle is illegally parked and blocks the movement of a legally parked vehicle.

(s) (1) When a vehicle, except highway maintenance or construction equipment, an authorized emergency vehicle, or a vehicle that is properly permitted or otherwise authorized by the Department of Transportation, is stopped, parked, or left standing for more than eight hours within a roadside rest area or viewpoint.

(2) For purposes of this subdivision, a roadside rest area or viewpoint is a publicly maintained vehicle parking area, adjacent to a highway, utilized for the convenient, safe stopping of a vehicle to enable motorists to rest or to view the scenery. If two or more roadside rest areas are located on opposite sides of the highway, or upon the center divider, within seven miles of each other, then that combination of rest areas is considered to be the same rest area.

(t) When a peace officer issues a notice to appear for a violation of Section 25279.

SEC. 2. Section 22651 of the Vehicle Code is amended to read:

22651. A peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, or a regularly employed and salaried employee, who is engaged in directing traffic or enforcing parking laws and regulations, of a city, county, or jurisdiction of a state agency in which a vehicle is located, may remove a vehicle located within the territorial limits in which the officer or employee may act, under the following circumstances:

(a) When a vehicle is left unattended upon any bridge, viaduct, or causeway or in any tube or tunnel where the vehicle constitutes an obstruction to traffic.

(b) When a vehicle is parked or left standing upon a highway in a position so as to obstruct the normal movement of traffic or in a condition so as to create a hazard to other traffic upon the highway.

(c) When a vehicle is found upon a highway or public land and a report has previously been made that the vehicle is stolen or a complaint has been filed and a warrant thereon is issued charging that the vehicle is embezzled.

(d) When a vehicle is illegally parked so as to block the entrance to a private driveway and it is impractical to move the vehicle from in front of the driveway to another point on the highway.

(e) When a vehicle is illegally parked so as to prevent access by firefighting equipment to a fire hydrant and it is impracticable to move the vehicle from in front of the fire hydrant to another point on the highway.

(f) When a vehicle, except highway maintenance or construction equipment, is stopped, parked, or left standing for more than four hours upon the right-of-way of a freeway that has full control of access and no crossings at grade and the driver, if present, cannot move the vehicle under its own power.

(g) When the person in charge of a vehicle upon a highway or public land is, by reason of physical injuries or illness, incapacitated to an extent so as to be unable to provide for its custody or removal.

(h) (1) When an officer arrests a person driving or in control of a vehicle for an alleged offense and the officer is, by this code or other law, required or permitted to take, and does take, the person into custody.

(2) When an officer serves a notice of an order of suspension or revocation pursuant to Section 13388 or 13389.

(i) (1) When a vehicle, other than a rented vehicle, is found upon a highway or public land, or is removed pursuant to this code, and it is known that the vehicle has been issued five or more notices of parking violations to which the owner or person in control of the vehicle has not responded within 21 calendar days of notice of citation issuance or citation issuance or 14 calendar days of the mailing of a notice of delinquent parking violation to the agency responsible for processing notices of parking violation or the registered owner of the vehicle is known to have been issued five or more notices for failure to pay or failure to appear in court for traffic violations for which a certificate has not been issued by the magistrate or clerk of the court hearing the case showing that the case has been adjudicated or concerning which the registered owner's record has not been cleared pursuant to Chapter 6 (commencing with Section 41500) of Division 17, the vehicle may be impounded until that person furnishes to the impounding law enforcement agency all of the following:

(A) Evidence of his or her identity.

(B) An address within this state at which he or she can be located.

(C) Satisfactory evidence that all parking penalties due for the vehicle and all other vehicles registered to the registered owner of the impounded vehicle, and all traffic violations of the registered owner, have been cleared.

(2) The requirements in subparagraph (C) of paragraph (1) shall be fully enforced by the impounding law enforcement agency on and after the time that the Department of Motor Vehicles is able to provide access to the necessary records.

(3) A notice of parking violation issued for an unlawfully parked vehicle shall be accompanied by a warning that repeated violations may result in the impounding of the vehicle. In lieu of furnishing satisfactory evidence that the full amount of parking penalties or bail has been deposited, that person may demand to be taken without unnecessary delay before a magistrate, for traffic offenses, or a hearing examiner, for parking offenses, within the county in which the offenses charged are alleged to have been committed and who has jurisdiction of the offenses and is nearest or most accessible with reference to the place where the vehicle is impounded. Evidence of current registration shall be produced after a vehicle has been impounded, or, at the discretion of the impounding law enforcement agency, a notice to appear for violation of subdivision (a) of Section 4000 shall be issued to that person.

(4) A vehicle shall be released to the legal owner, as defined in Section 370, if the legal owner does all of the following:

(A) Pays the cost of towing and storing the vehicle.

(B) Submits evidence of payment of fees as provided in Section 9561.

(C) Completes an affidavit in a form acceptable to the impounding law enforcement agency stating that the vehicle was not in possession of the legal owner at the time of occurrence of the offenses relating to standing or parking. A vehicle released to a legal owner under this subdivision is a repossessed vehicle for purposes of disposition or sale. The impounding agency shall have a lien on any surplus that remains upon sale of the vehicle to which the registered owner is or may be entitled, as security for the full amount of the parking penalties for all notices of parking violations issued for the vehicle and for local administrative charges imposed pursuant to Section 22850.5. The legal owner shall promptly remit to, and deposit with, the agency responsible for processing notices of parking violations from that surplus, on receipt of that surplus, the full amount of the parking penalties for all notices of parking violations issued for the vehicle and for local administrative charges imposed pursuant to Section 22850.5.

(5) The impounding agency that has a lien on the surplus that remains upon the sale of a vehicle to which a registered owner is entitled pursuant to paragraph (4) has a deficiency claim against the registered owner for the full amount of the parking penalties for all notices of parking violations issued for the vehicle and for local administrative charges imposed pursuant to Section 22850.5, less the amount received from the sale of the vehicle.

(j) When a vehicle is found illegally parked and there are no license plates or other evidence of registration displayed, the vehicle may be impounded until the owner or person in control of the vehicle furnishes the impounding law enforcement agency evidence of his or her identity and an address within this state at which he or she can be located.

(k) When a vehicle is parked or left standing upon a highway for 72 or more consecutive hours in violation of a local ordinance authorizing removal.

(*l*) When a vehicle is illegally parked on a highway in violation of a local ordinance forbidding standing or parking and the use of a highway, or a portion thereof, is necessary for the cleaning, repair, or construction of the highway, or for the installation of underground utilities, and signs giving notice that the vehicle may be removed are erected or placed at least 24 hours prior to the removal by a local authority pursuant to the ordinance.

(m) Wherever the use of the highway, or a portion of the highway, is authorized by a local authority for a purpose other than the normal flow of traffic or for the movement of equipment, articles, or structures of unusual size, and the parking of a vehicle would prohibit or interfere with that use or movement, and signs giving notice that the vehicle may be removed are erected or placed at least 24 hours prior to the removal by a local authority pursuant to the ordinance.

(n) Whenever a vehicle is parked or left standing where local authorities, by resolution or ordinance, have prohibited parking and have authorized the removal of vehicles. A vehicle shall not be removed unless signs are posted giving notice of the removal.

(o) (1) When a vehicle is found or operated upon a highway, public land, or an offstreet parking facility under the following circumstances:

(A) With a registration expiration date in excess of six months before the date it is found or operated on the highway, public lands, or the offstreet parking facility.

(B) Displaying in, or upon, the vehicle, a registration card, identification card, temporary receipt, license plate, special plate, registration sticker, device issued pursuant to Section 4853, or permit that was not issued for that vehicle, or is not otherwise lawfully used on that vehicle under this code.

(C) Displaying in, or upon, the vehicle, an altered, forged, counterfeit, or falsified registration card, identification card, temporary receipt, license plate, special plate, registration sticker, device issued pursuant to Section 4853, or permit.

(2) When a vehicle described in paragraph (1) is occupied, only a peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, may remove the vehicle.

(3) For the purposes of this subdivision, the vehicle shall be released to the owner or person in control of the vehicle only after the owner or person furnishes the storing law enforcement agency with proof of current registration and a currently valid driver's license to operate the vehicle.

(4) As used in this subdivision, "offstreet parking facility" means an offstreet facility held open for use by the public for parking vehicles and includes a publicly owned facility for offstreet parking, and privately owned facilities for offstreet parking where a fee is not charged for the privilege to park and which are held open for the common public use of retail customers.

(p) When the peace officer issues the driver of a vehicle a notice to appear for a violation of Section 12500, 14601, 14601.1, 14601.2, 14601.3, 14601.4, 14601.5, or 14604 and the vehicle is not impounded pursuant to Section 22655.5. A vehicle so removed from the highway or public land, or from private property after having been on a highway or public land, shall not be released to the registered owner or his or her agent, except upon presentation of the registered owner's or his or her agent's currently valid driver's license to operate the vehicle and proof of current vehicle registration, or upon order of a court.

(q) Whenever a vehicle is parked for more than 24 hours on a portion of highway that is located within the boundaries of a common interest development, as defined in subdivision (c) of Section 1351 of the Civil Code, and signs, as required by Section 22658.2, have been posted on that portion of highway providing notice to drivers that vehicles parked thereon for more than 24 hours will be removed at the owner's expense, pursuant to a resolution or ordinance adopted by the local authority.

(r) When a vehicle is illegally parked and blocks the movement of a legally parked vehicle.

(s) (1) When a vehicle, except highway maintenance or construction equipment, an authorized emergency vehicle, or a vehicle that is properly permitted or otherwise authorized by the Department of Transportation, is stopped, parked, or left standing for more than eight hours within a roadside rest area or viewpoint.

(2) For purposes of this subdivision, a roadside rest area or viewpoint is a publicly maintained vehicle parking area, adjacent to a highway, utilized for the convenient, safe stopping of a vehicle to enable motorists

to rest or to view the scenery. If two or more roadside rest areas are located on opposite sides of the highway, or upon the center divider, within seven miles of each other, then that combination of rest areas is considered to be the same rest area.

(t) When a peace officer issues a notice to appear for a violation of Section 25279.

SEC. 3. Section 2 of this bill incorporates amendments to Section 22651 of the Vehicle Code proposed by both this bill and AB 1165. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2008, but this bill becomes operative first, (2) each bill amends Section 22651 of the Vehicle Code, and (3) this bill is enacted after AB 1165, in which case Section 22651 of the Vehicle Code, as amended by Section 1 of this bill, shall remain operative only until the operative date of AB 1165, at which time Section 2 of this bill shall become operative.

CHAPTER 454

An act to amend Sections 56000, 56026.1, 56028.5, 56031, 56033.5, 56058, 56059, 56171, 56173, 56205, 56301, 56321, 56329, 56341, 56341.5, 56344, 56345, 56345.1, 56346, 56363, 56380.1, 56381, 56500.2, 56500.3, 56500.4, 56501.5, 56502, 56505, 56515, 56600.6, and 56841 of, to add Sections 56040.1 and 56345.2 to, to add Article 5 (commencing with Section 56070) to Chapter 1 of Part 30 of Division 4 of Title 2 of, and to repeal and add Section 56028 of, the Education Code, relating to special education, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 10, 2007. Filed with Secretary of State October 10, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 56000 of the Education Code is amended to read:

56000. (a) The Legislature finds and declares that all individuals with exceptional needs have a right to participate in free appropriate public education and special educational instruction and services for these persons are needed in order to ensure the right to an appropriate educational opportunity to meet their unique needs.

(b) The Legislature further finds and declares that special education is an integral part of the total public education system and provides

education in a manner that promotes maximum interaction between children or youth with disabilities and children or youth who are not disabled, in a manner that is appropriate to the needs of both.

(c) The Legislature further finds and declares that special education provides a full continuum of program options, including instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings, and instruction in physical education, to meet the educational and service needs in the least restrictive environment.

(d) It is the intent of the Legislature to unify and improve special education programs in California under the flexible program design of the Master Plan for Special Education. It is the further intent of the Legislature to ensure that all individuals with exceptional needs are provided their rights to appropriate programs and services which are designed to meet their unique needs under the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.).

(e) It is the further intent of the Legislature that this part does not abrogate any rights provided to individuals with exceptional needs and their parents or guardians under the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.). It is also the intent of the Legislature that this part does not set a higher standard of educating individuals with exceptional needs than that established by Congress under the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.).

(f) It is the further intent of the Legislature that the Master Plan for Special Education provide an educational opportunity for individuals with exceptional needs that is equal to or better than that provided prior to the implementation of programs under this part, including, but not limited to, those provided to individuals previously served in a development center for handicapped pupils.

(g) It is the intent of the Legislature that the restructuring of special education programs as set forth in the Master Plan for Special Education be implemented in accordance with this part by all districts and county offices.

SEC. 2. Section 56026.1 of the Education Code is amended to read:

56026.1. (a) As provided in Section 300.102(a)(3)(i) of Title 34 of the Code of Federal Regulations, an individual with exceptional needs who graduates from high school with a regular high school diploma is no longer eligible for special education and related services.

(b) For purposes of this section and Section 56026, a "regular high school diploma" means a diploma conferred on a pupil who has met all local and state high school graduation requirements.

(c) As used in this section, and in accordance with Section 300.102(a)(3)(iv) of Title 34 of the Code of Federal Regulations, "regular

high school diploma" does not include an alternative degree that is not fully aligned with the academic standards of the State of California, such as a certificate or a General Educational Development credential (GED).

SEC. 3. Section 56028 of the Education Code is repealed.

SEC. 4. Section 56028 is added to the Education Code, to read:

56028. (a) "Parent" means any of the following:

(1) A biological or adoptive parent of a child.

(2) A foster parent if the authority of the biological or adoptive parents to make educational decisions on the child's behalf specifically has been limited by court order in accordance with Section 300.30(b)(1) or (2) of Title 34 of the Code of Federal Regulations.

(3) A guardian generally authorized to act as the child's parent, or authorized to make educational decisions for the child.

(4) An individual acting in the place of a biological or adoptive parent, including a grandparent, stepparent, or other relative, with whom the child lives, or an individual who is legally responsible for the child's welfare.

(5) A surrogate parent who has been appointed pursuant to Section 7579.5 or 7579.6 of the Government Code, and in accordance with Section 300.519 of Title 34 of the Code of Federal Regulations and Section 1439(a)(5) of Title 20 of the United States Code.

(b) (1) Except as provided in paragraph (2), the biological or adoptive parent, when attempting to act as the parent under this part and when more than one party is qualified under subdivision (a) to act as a parent, shall be presumed to be the parent for purposes of this section unless the biological or adoptive parent does not have legal authority to make educational decisions for the child.

(2) If a judicial decree or order identifies a specific person or persons under paragraphs (1) to (4), inclusive, of subdivision (a) to act as the "parent" of a child or to make educational decisions on behalf of a child, then that person or persons shall be determined to be the "parent" for purposes of this section.

(c) "Parent" does not include the state or any political subdivision of government.

(d) "Parent" does not include a nonpublic, nonsectarian school or agency under contract with a local educational agency for the provision of special education or designated instruction and services for a child.

SEC. 5. Section 56028.5 of the Education Code is amended to read:

56028.5. "Public agency" means a school district, county office of education, special education local plan area, a nonprofit public charter school that is not otherwise included as a local educational agency and is not a school within a local educational agency, or any other public agency under the auspices of the state or any political subdivisions of

the state providing special education or related services to individuals with exceptional needs. For purposes of this part, "public agency," means all of the public agencies listed in Section 300.33 of Title 34 of the Code of Federal Regulations.

SEC. 6. Section 56031 of the Education Code is amended to read:

56031. (a) "Special education," in accordance with Section 1401(29) of Title 20 of the United States Code, means specially designed instruction, at no cost to the parent, to meet the unique needs of individuals with exceptional needs, including instruction conducted in the classroom, in the home, in hospitals and institutions, and other settings, and instruction in physical education.

(b) In accordance with Section 300.39 of Title 34 of the Code of Federal Regulations, special education includes each of the following, if the services otherwise meet the requirements of subdivision (a):

(1) Speech-language pathology services, or any other designated instruction and service or related service, pursuant to Section 56363, if the service is considered special education rather than a designated instruction and service or related service under state standards.

(2) Travel training.

(3) Vocational education.

(c) Transition services for individuals with exceptional needs may be special education, in accordance with Section 300.43(b) of Title 34 of the Code of Federal Regulations, if provided as specially designed instruction, or a related service, if required to assist an individual with exceptional needs to benefit from special education.

(d) Individuals with exceptional needs shall be grouped for instructional purposes according to their instructional needs.

SEC. 7. Section 56033.5 of the Education Code is amended to read:

56033.5. "Supplementary aids and services," as provided in Section 1401(33) of Title 20 of the United States Code and in Section 300.42 of Title 34 of the Code of Federal Regulations, means aids, services, and other supports that are provided in regular education classes or other education-related settings and in extracurricular and nonacademic settings, to enable individuals with exceptional needs to be educated with nondisabled children to the maximum extent appropriate in accordance with Section 1412(a)(5) of Title 20 of the United States Code and Sections 300.114 to 300.116, inclusive, of Title 34 of the Code of Federal Regulations.

SEC. 8. Section 56040.1 is added to the Education Code, to read:

56040.1. In accordance with Section 1412(a)(5) of Title 20 of the United States Code and Section 300.114 of Title 34 of the Code of Federal Regulations, each public agency shall ensure the following to

address the least restrictive environment for individuals with exceptional needs:

(a) To the maximum extent appropriate, individuals with exceptional needs, including children in public or private institutions or other care facilities, are educated with children who are nondisabled.

(b) Special classes, separate schooling, or other removal of individuals with exceptional needs from the regular educational environment occurs only if the nature or severity of the disability is such that education in the regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

SEC. 9. Section 56058 of the Education Code is amended to read:

56058. Special education teachers providing instruction and educational services under this part shall meet the same "highly qualified" requirements, as defined in Section 1401(10) of Title 20 of the United States Code, and in Section 300.18 of Title 34 of the Code of Federal Regulations, and personnel qualifications described in Section 1412(a)(14) of Title 20 of the United States Code, and in Section 300.156 of Title 34 of the Code of Federal Regulations.

SEC. 10. Section 56059 of the Education Code is amended to read:

56059. (a) This part does not create a right of action on behalf of an individual with exceptional needs or class of pupils for failure of a state or local educational agency employee to be highly qualified.

(b) In accordance with Section 300.156(e) of Title 34 of the Code of Federal Regulations, nothing in this part prevents a parent from filing a complaint with the department under Section 56500.2, and under Sections 300.151 to 300.153, inclusive, of Title 34 of the Code of Federal Regulations, about staff qualifications.

SEC. 11. Article 5 (commencing with Section 56070) is added to Chapter 1 of Part 30 of Division 4 of Title 2 of the Education Code, to read:

Article 5. Qualifications for Designated Instruction and Services Personnel, Related Services Personnel, and Paraprofessionals

56070. (a) In accordance with Section 1412(a)(14)(A), (B), and (D) of Title 20 of the United States Code and Section 300.156(a), (b), and (d) of Title 34 of the Code of Federal Regulations, qualifications for designated instruction and services personnel, related services personnel, and paraprofessionals shall include the following:

(1) Be consistent with a state-approved or state-recognized certification, licensing, registration, or other comparable requirements that apply to the professional discipline in which those personnel are

providing special education or designated instruction and services, and related services.

(2) Ensure that personnel who deliver services in their discipline or profession meet the requirements of this subdivision and have not had certification or licensure requirements waived on an emergency, temporary, or provisional basis.

(3) Allow paraprofessionals and assistants who are appropriately trained and supervised, in accordance with state law, regulation, or written policy, in meeting the requirements of this part to be used to assist in the provision of special education, designated instruction and services, and related services under this part to individuals with exceptional needs.

(b) Local educational agencies shall take measurable steps to recruit, hire, train, and retain highly qualified personnel to provide special education, designated instruction and services, and related services under this part to individuals with exceptional needs.

SEC. 12. Section 56171 of the Education Code is amended to read:

56171. Pursuant to Section 300.131 of Title 34 of the Code of Federal Regulations, local educational agencies shall locate, identify, and assess all private school children with disabilities, including religiously affiliated schoolage children, who have disabilities and are in need of special education and related services attending private school in the service area of the local educational agencies where the private school is located in accordance with Section 56301. The activities undertaken to carry out this responsibility for private school children with disabilities shall be comparable to activities undertaken in accordance with Section 1412(a)(10)(A)(ii) of Title 20 of the United States Code.

SEC. 13. Section 56173 of the Education Code is amended to read:

56173. To meet the requirements of Section 56172, each local educational agency shall provide special education and related services to pupils with disabilities enrolled by a parent in private elementary and secondary schools, described in Section 56171, by expending an amount of federal state grant funds allocated to the state under Part B of the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) equal to a proportionate amount of federal funds made available under the Part B grant program for local assistance, in accordance with Section 1412(a)(10)(A)(i) of Title 20 of the United States Code and Section 300.133 of Title 34 of the Code of Federal Regulations. In accordance with Section 300.131(d) of Title 34 of the Code of Federal Regulations, the cost of carrying out the child find requirements in Section 56171 cannot come from the proportional share of federal grant funds received pursuant to this section and Section 300.133 of Title 34 of the Code of Federal Regulations since those funds are required to be

spent on the provision of services to the pupils with disabilities enrolled by a parent in private elementary and secondary schools.

The control of public funds used to provide special education and related services under Section 1412(a)(10)(A) of Title 20 of the United States Code, and title to materials, equipment, and property purchased with those funds, shall be in a public agency for the uses and purposes provided in the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.). A public agency shall administer the funds and property.

SEC. 13.5. Section 56205 of the Education Code is amended to read:

56205. (a) Each special education local plan area submitting a local plan to the Superintendent under this part shall ensure, in conformity with Sections 1412(a) and 1413(a)(1) of Title 20 of the United States Code, and in accordance with Section 300.201 of Title 34 of the Code of Federal Regulations, that it has in effect policies, procedures, and programs that are consistent with state laws, regulations, and policies governing the following:

(1) Free appropriate public education.

(2) Full educational opportunity.

(3) Child find and referral.

(4) Individualized education programs, including development, implementation, review, and revision.

(5) Least restrictive environment.

(6) Procedural safeguards.

(7) Annual and triennial assessments.

(8) Confidentiality.

(9) Transition from Subchapter III (commencing with Section 1431) of Title 20 of the United States Code to the preschool program.

(10) Children in private schools.

(11) Compliance assurances, including general compliance with the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794), the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.), federal regulations relating thereto, and this part.

(12) (A) A description of the governance and administration of the plan, including identification of the governing body of a multidistrict plan or the individual responsible for administration in a single district plan, and of the elected officials to whom the governing body or individual is responsible.

(B) A description of the regionalized operations and services listed in Section 56836.23 and the direct instructional support provided by program specialists in accordance with Section 56368 to be provided through the plan.

(C) Verification that a community advisory committee has been established pursuant to Section 56190.

(D) Multidistrict plans, submitted pursuant to subdivision (b) or (c) of Section 56195.1, shall do the following:

(i) Specify the responsibilities of each participating county office and district governing board in the policymaking process, the responsibilities of the superintendents of each participating district and county in the implementation of the plan, and the responsibilities of district and county administrators of special education in coordinating the administration of the local plan.

(ii) Identify the respective roles of the administrative unit and the administrator of the special education local plan area and the individual local educational agencies within the special education local plan area in relation to the following:

(I) The hiring, supervision, evaluation, and discipline of the administrator of the special education local plan area and staff employed by the administrative unit in support of the local plan.

(II) The allocation from the state of federal and state funds to the special education local plan area administrative unit or to local educational agencies within the special education local plan area.

(III) The operation of special education programs.

(IV) Monitoring the appropriate use of federal, state, and local funds allocated for special education programs.

(V) The preparation of program and fiscal reports required of the special education local plan area by the state.

(iii) Include copies of joint powers agreements or contractual agreements, as appropriate, for districts and counties that elect to enter into those agreements pursuant to subdivision (b) or (c) of Section 56195.1.

(E) The description of the governance and administration of the plan, and the policymaking process, shall be consistent with subdivision (f) of Section 56001, subdivision (a) of Section 56195.3, and Section 56195.9, and shall reflect a schedule of regular consultations regarding policy and budget development with representatives of special education and regular education teachers and administrators selected by the groups they represent and parent members of the community advisory committee established pursuant to Article 7 (commencing with Section 56190) of Chapter 2.

(13) Personnel qualifications to ensure that personnel, including special education teachers and personnel and paraprofessionals providing related services, necessary to implement this part are appropriately and adequately prepared and trained in accordance with Sections 56058 and

56070 and Sections 1412(a)(14) and 1413(a)(3) of Title 20 of the United States Code.

(14) Performance goals and indicators.

(15) Participation in state and districtwide assessments, including assessments described under Section 1111 of the federal Elementary and Secondary Education Act of 1965 (20 U.S.C. Sec. 6301 et seq.) and alternate assessments in accordance with Section 1412(a)(16) of Title 20 of the United States Code, and reports relating to assessments.

(16) Supplementation of state, local, and other federal funds, including nonsupplantation of funds.

(17) Maintenance of financial effort.

(18) Opportunities for public participation prior to adoption of policies and procedures.

(19) Suspension and expulsion rates.

(20) Access to instructional materials by blind individuals with exceptional needs and others with print disabilities in accordance with Section 1412(a)(23) of Title 20 of the United States Code.

(21) Overidentification and disproportionate representation by race and ethnicity of children as individuals with exceptional needs, including children with disabilities with a particular impairment described in Section 1401 of Title 20 of the United States Code and in accordance with Section 1412(a)(24) of Title 20 of the United States Code.

(22) Prohibition of mandatory medication use pursuant to Section 56040.5 and in accordance with Section 1412(a)(25) of Title 20 of the United States Code.

(b) Each local plan submitted to the Superintendent under this part shall also contain all the following:

(1) An annual budget plan that shall be adopted at a public hearing held by the special education local plan area. Notice of this hearing shall be posted in each school in the local plan area at least 15 days prior to the hearing. The annual budget plan may be revised during any fiscal year according to the policymaking process established pursuant to subparagraphs (D) and (E) of paragraph (12) of subdivision (a) and consistent with subdivision (f) of Section 56001 and Section 56195.9. The annual budget plan shall identify expected expenditures for all items required by this part which shall include, but not be limited to, the following:

(A) Funds received in accordance with Chapter 7.2 (commencing with Section 56836).

(B) Administrative costs of the plan.

(C) Special education services to pupils with severe disabilities and low incidence disabilities.

(D) Special education services to pupils with nonsevere disabilities.

(E) Supplemental aids and services to meet the individual needs of pupils placed in regular education classrooms and environments.

(F) Regionalized operations and services, and direct instructional support by program specialists in accordance with Article 6 (commencing with Section 56836.23) of Chapter 7.2.

(G) The use of property taxes allocated to the special education local plan area pursuant to Section 2572.

(2) An annual service plan shall be adopted at a public hearing held by the special education local plan area. Notice of this hearing shall be posted in each district in the special education local plan area at least 15 days prior to the hearing. The annual service plan may be revised during any fiscal year according to the policymaking process established pursuant to subparagraphs (D) and (E) of paragraph (12) of subdivision (a) and consistent with subdivision (f) of Section 56001 and with Section 56195.9. The annual service plan shall include a description of services to be provided by each district and county office, including the nature of the services and the physical location at which the services will be provided, including alternative schools, charter schools, opportunity schools and classes, community day schools operated by districts, community schools operated by county offices, and juvenile court schools, regardless of whether the district or county office is participating in the local plan. This description shall demonstrate that all individuals with exceptional needs shall have access to services and instruction appropriate to meet their needs as specified in their individualized education programs.

(3) A description of programs for early childhood special education from birth through five years of age.

(4) A description of the method by which members of the public, including parents or guardians of individuals with exceptional needs who are receiving services under the plan, may address questions or concerns to the governing body or individual identified in subparagraph (A) of paragraph (12) of subdivision (a).

(5) A description of a dispute resolution process, including mediation and final and binding arbitration to resolve disputes over the distribution of funding, the responsibility for service provision, and the other governance activities specified within the plan.

(6) Verification that the plan has been reviewed by the community advisory committee and that the committee had at least 30 days to conduct this review prior to submission of the plan to the Superintendent.

(7) A description of the process being utilized to meet the requirements of Section 56303.

(c) A description of the process being utilized to oversee and evaluate placements in nonpublic, nonsectarian schools and the method of ensuring

that all requirements of each pupil's individualized education program are being met. The description shall include a method for evaluating whether the pupil is making appropriate educational progress.

(d) The local plan, budget plan, and annual service plan shall be written in language that is understandable to the general public.

SEC. 14. Section 56301 of the Education Code is amended to read:

56301. (a) All children with disabilities residing in the state, including children with disabilities who are homeless children or are wards of the state and children with disabilities attending private, including religious, elementary and secondary schools, regardless of the severity of their disabilities, and who are in need of special education and related services, shall be identified, located, and assessed and a practical method is developed and implemented to determine which children with disabilities are currently receiving needed special education and related services as required by Section 1412(a)(3) and (10)(A)(ii) of Title 20 of the United States Code. A child is not required to be classified by his or her disability so long as each child who has a disability listed in Section 1401(3) of Title 20 of the United States Code and who, by reason of that disability, needs special education and related services as an individual with exceptional needs defined in Section 56026.

(b) (1) In accordance with Section 300.111(c) of Title 34 of the Code of Federal Regulations, the requirements of this section also apply to highly mobile individuals with exceptional needs, including migrant children, and children who are suspected of being an individual with exceptional needs pursuant to Section 56026 and in need of special education, even though they are advancing from grade to grade.

(2) In accordance with Section 300.213 of Title 34 of the Code of Federal Regulations, the local educational agency shall cooperate in the efforts of the federal Secretary of Education, under Section 6398 of Title 20 of the United States Code, to ensure the linkage of records pertaining to migratory children with disabilities for the purpose of electronically exchanging, among other states, health and educational information regarding those children.

(c) (1) The child find process shall ensure the equitable participation in special education and related services of parentally placed private schoolchildren with disabilities and an accurate count of those children. Child find activities conducted by local educational agencies, or where applicable, the department, shall be similar to those activities undertaken for pupils in public schools.

(2) In accordance with Section 1412(a)(10)(A)(ii)(IV) of Title 20 of the United States Code, the cost of the child find activities in private, including religious, elementary and secondary schools, may not be

considered in determining whether a local educational agency has met its obligations under the proportionate funding provisions for children enrolled in private, including religious, elementary and secondary schools.

(3) The child find process described in paragraph (1) shall be completed in a time period comparable to that for other pupils attending public schools in the local educational agency.

(d) (1) Each special education local plan area shall establish written policies and procedures pursuant to Section 56205 for use by its constituent local agencies for a continuous child find system that addresses the relationships among identification, screening, referral, assessment, planning, implementation, review, and the triennial assessment. The policies and procedures shall include, but need not be limited to, written notification of all parents of their rights under this chapter, and the procedure for initiating a referral for assessment to identify individuals with exceptional needs.

(2) In accordance with Section 1415(d)(1)(A) of Title 20 of the United States Code, and Section 300.504(a) of Title 34 of the Code of Federal Regulations, parents shall be given a copy of their rights and procedural safeguards only one time a school year, except that a copy also shall be given to the parents:

(A) Upon initial referral or parental request for assessment.

(B) Upon receipt of the first state complaint under Section 56500.2 in a school year.

(C) Upon receipt of the first due process hearing request under Section 56502 in a school year.

(D) When a decision is made to make a removal that constitutes a change of placement of an individual with exceptional needs because of a violation of a code of pupil conduct in accordance with Section 300.530(h) of Title 34 of the Code of Federal Regulations.

(E) Upon request by a parent.

(3) A local educational agency may place a current copy of the procedural safeguards notice on its Internet Web site, if such Web site exists, pursuant to Section 1415(d)(1)(B) of Title 20 of the United States Code.

(4) The contents of the procedural safeguards notice shall contain the requirements listed in Section 1415(d)(2) of Title 20 of the United States Code and Section 300.504(c) of Title 34 of the Code of Federal Regulations.

(e) Child find data collected pursuant to this chapter, or collected pursuant to a regulation or an interagency agreement, are subject to the confidentiality requirements of Sections 300.611 to 300.627, inclusive, of Title 34 of the Code of Federal Regulations.

SEC. 15. Section 56321 of the Education Code is amended to read:

56321. (a) If an assessment for the development or revision of the individualized education program is to be conducted, the parent or guardian of the pupil shall be given, in writing, a proposed assessment plan within 15 days of the referral for assessment not counting days between the pupil's regular school sessions or terms or days of school vacation in excess of five schooldays from the date of receipt of the referral, unless the parent or guardian agrees, in writing, to an extension. However, in any event, the assessment plan shall be developed within 10 days after the commencement of the subsequent regular school year or the pupil's regular school term as determined by each district's school calendar for each pupil for whom a referral has been made 10 days or less prior to the end of the regular school year. In the case of pupil school vacations, the 15-day time shall recommence on the date that the pupil's regular schooldays reconvene. A copy of the notice of a parent's or guardian's rights shall be attached to the assessment plan. A written explanation of all the procedural safeguards under the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), and the rights and procedures contained in Chapter 5 (commencing with Section 56500), shall be included in the notice of a parent's or guardian's rights, including information on the procedures for requesting an informal meeting, prehearing mediation conference, mediation conference, or due process hearing; the timelines for completing each process; whether the process is optional; and the type of representative who may be invited to participate.

(b) The proposed assessment plan given to parents or guardians shall meet all the following requirements:

(1) Be in language easily understood by the general public.

(2) Be provided in the native language of the parent or guardian or other mode of communication used by the parent or guardian, unless to do so is clearly not feasible.

(3) Explain the types of assessments to be conducted.

(4) State that no individualized education program will result from the assessment without the consent of the parent.

(c) (1) The local educational agency proposing to conduct an initial assessment to determine if the child qualifies as an individual with exceptional needs shall make reasonable efforts to obtain informed consent from the parent of the child before conducting the assessment, in accordance with Section 1414(a)(1)(D) of Title 20 of the United States Code.

(2) If the parent of the child does not provide consent for an initial assessment, or the parent fails to respond to a request to provide the consent, the local educational agency may, but is not required to, pursue

the initial assessment utilizing the procedures described in Section 1415 of Title 20 of the United States Code and in accordance with paragraph (3) of subdivision (a) of Section 56501 and subdivision (e) of Section 56506.

(3) In accordance with Section 300.300(a)(3)(ii) of Title 34 of the Code of Federal Regulations, the local educational agency does not violate its obligation under Section 300.111 and Sections 300.301 to 300.311, inclusive, of Title 34 of the Code of Federal Regulations if it declines to pursue the assessment.

(4) The parent or guardian shall have at least 15 days from the receipt of the proposed assessment plan to arrive at a decision. The assessment may begin immediately upon receipt of the consent.

(d) Consent for initial assessment shall not be construed as consent for initial placement or initial provision of special education and related services to an individual with exceptional needs, pursuant to Section 1414(a)(1)(D)(i)(I) of Title 20 of the United States Code.

(e) In accordance with Section 300.300(d)(1) of Title 34 of the Code of Federal Regulations, parental consent is not required before reviewing existing data as part of an assessment or reassessment, or before administering a test or other assessment that is administered to all children, unless before administration of that test or assessment, consent is required of the parents of all the children.

(f) Pursuant to Section 1414(a)(1)(E) of Title 20 of the United States Code, the screening of a pupil by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation shall not be considered to be an assessment for eligibility for special education and related services.

(g) In accordance with Section 300.300(d)(5) of Title 34 of the Code of Federal Regulations, to meet the reasonable efforts requirement in subdivision (c), the local educational agency shall document its attempts to obtain parental consent using the procedures in subdivision (h) of Section 56341.5.

SEC. 16. Section 56329 of the Education Code is amended to read:

56329. As part of the assessment plan given to parents or guardians pursuant to Section 56321, the parent or guardian of the pupil shall be provided with a written notice that shall include all of the following information:

(a) (1) Upon completion of the administration of tests and other assessment materials, an individualized education program team meeting, including the parent or guardian and his or her representatives, shall be scheduled, pursuant to Section 56341, to determine whether the pupil is an individual with exceptional needs as defined in Section 56026, and

to discuss the assessment, the educational recommendations, and the reasons for these recommendations.

(2) In making a determination of eligibility under paragraph (1), a pupil shall not, pursuant to Section 1414(b)(5) of Title 20 of the United States Code, and Section 300.306(b) of Title 34 of the Code of Federal Regulations, be determined to be an individual with exceptional needs if the determinant factor for the determination is one of the following in subparagraphs (A) to (C), inclusive, plus subparagraph (D):

(A) Lack of appropriate instruction in reading, including the essential components of reading instruction as defined in Section 6368(3) of Title 20 of the United States Code.

(B) Lack of appropriate instruction in mathematics.

(C) Limited-English proficiency.

(D) If the pupil does not otherwise meet the eligibility criteria under Section 300.8(a) of Title 34 of the Code of Federal Regulations.

(3) A copy of the assessment report and the documentation of determination of eligibility shall be given to the parent or guardian.

(b) A parent or guardian has the right to obtain, at public expense, an independent educational assessment of the pupil from qualified specialists, as defined by regulations of the board, if the parent or guardian disagrees with an assessment obtained by the public education agency, in accordance with Section 300.502 of Title 34 of the Code of Federal Regulations. A parent or guardian is entitled to only one independent educational assessment at public expense each time the public education agency conducts an assessment with which the parent or guardian disagrees. If a public education agency observed the pupil in conducting its assessment, or if its assessment procedures make it permissible to have in-class observation of a pupil, an equivalent opportunity shall apply to an independent educational assessment of the pupil in the pupil's current educational placement and setting, and observation of an educational placement and setting, if any, proposed by the public education agency, regardless of whether the independent educational assessment is initiated before or after the filing of a due process hearing proceeding.

(c) The public education agency may initiate a due process hearing pursuant to Chapter 5 (commencing with Section 56500) to show that its assessment is appropriate. If the final decision resulting from the due process hearing is that the assessment is appropriate, the parent or guardian maintains the right for an independent educational assessment, but not at public expense.

If the parent or guardian obtains an independent educational assessment at private expense, the results of the assessment shall be considered by the public education agency with respect to the provision of free

appropriate public education to the child, and may be presented as evidence at a due process hearing pursuant to Chapter 5 (commencing with Section 56500) regarding the child. If a public education agency observed the pupil in conducting its assessment, or if its assessment procedures make it permissible to have in-class observation of a pupil, an equivalent opportunity shall apply to an independent educational assessment of the pupil in the pupil's current educational placement and setting, and observation of an educational placement and setting, if any, proposed by the public education agency, regardless of whether the independent educational assessment is initiated before or after the filing of a due process hearing proceeding.

(d) If a parent or guardian proposes a publicly financed placement of the pupil in a nonpublic school, the public education agency shall have an opportunity to observe the proposed placement and the pupil in the proposed placement, if the pupil has already been unilaterally placed in the nonpublic school by the parent or guardian. An observation conducted pursuant to this subdivision shall only be of the pupil who is the subject of the observation and shall not include the observation or assessment of any other pupil in the proposed placement. The observation or assessment by a public education agency of a pupil other than the pupil who is the subject of the observation pursuant to this subdivision may be conducted, if at all, only with the consent of the parent or guardian pursuant to this article. The results of an observation or assessment of any other pupil in violation of this subdivision shall be inadmissible in a due process or judicial proceeding regarding the free appropriate public education of that other pupil.

SEC. 17. Section 56341 of the Education Code is amended to read:

56341. (a) Each meeting to develop, review, or revise the individualized education program of an individual with exceptional needs shall be conducted by an individualized education program team.

(b) The individualized education program team shall include all of the following:

(1) One or both of the pupil's parents, a representative selected by a parent, or both, in accordance with the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.).

(2) Not less than one regular education teacher of the pupil, if the pupil is, or may be, participating in the regular education environment. If more than one regular education teacher is providing instructional services to the individual with exceptional needs, one regular education teacher may be designated by the local educational agency to represent the others.

The regular education teacher of an individual with exceptional needs, to the extent appropriate, shall participate in the development, review,

and revision of the pupil's individualized education program, including assisting in the determination of appropriate positive behavioral interventions and supports, and other strategies for the pupil, and the determination of supplementary aids and services, program modifications, and supports for school personnel that will be provided for the pupil, consistent with Section 1414(d)(1)(A)(i)(IV) of Title 20 of the United States Code.

(3) Not less than one special education teacher of the pupil, or if appropriate, not less than one special education provider of the pupil.

(4) A representative of the local educational agency who meets all of the following:

(A) Is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of individuals with exceptional needs.

(B) Is knowledgeable about the general education curriculum.

(C) Is knowledgeable about the availability of resources of the local educational agency.

(5) An individual who can interpret the instructional implications of the assessment results. The individual may be a member of the team described in paragraphs (2) to (6), inclusive.

(6) At the discretion of the parent, guardian, or the local educational agency, other individuals who have knowledge or special expertise regarding the pupil, including related services personnel, as appropriate. The determination of whether the individual has knowledge or special expertise regarding the pupil shall be made by the party who invites the individual to be a member of the individualized education program team.

(7) Whenever appropriate, the individual with exceptional needs.

(c) In accordance with Sections 300.308 and 300.310 of Title 34 of the Code of Federal Regulations, for a pupil suspected of having a specific learning disability, at least one member of the individualized education program team shall be qualified to conduct individual diagnostic examinations of children, such as a school psychologist, speech-language pathologist, or remedial reading teacher. In accordance with Section 300.310 of Title 34 of the Code of Federal Regulations, at least one team member shall observe the pupil's academic performance and behavior in the areas of difficulty in the pupil's learning environment, including in the regular classroom setting. In the case of a child who is less than schoolage or out of school, a team member shall observe the child in an environment appropriate for a child of that age.

(d) (1) The local educational agency shall invite an individual with exceptional needs to attend his or her individualized education program meeting if a purpose of the meeting will be the consideration of the postsecondary goals for the individual and the needed transition services

for the individual to assist the individual in reaching those goals under subparagraphs (A) and (B) of paragraph (8) of subdivision (a) of Section 56345.

(2) If the individual with exceptional needs does not attend the individualized education program meeting, the local educational agency shall take steps to ensure that the individual's preferences and interests are considered.

(3) To the extent appropriate, with the consent of the parents or an individual with exceptional needs who has reached the age of majority, in implementing the requirements of paragraph (1), the local educational agency shall invite a representative of a participating agency that is likely to be responsible for providing or paying for transition services.

(e) A local educational agency may designate another local educational agency member of the individualized education program team to serve also as the representative required pursuant to paragraph (4) of subdivision (b) if the requirements of subparagraphs (A), (B), and (C) of paragraph (4) of subdivision (b) are met.

(f) A member of the individualized education program team described in paragraphs (2) to (5), inclusive, of subdivision (b) shall not be required to attend an individualized education program meeting, in whole or in part, if the parent of the individual with exceptional needs and the local educational agency agree, in writing, that the attendance of the member is not necessary because the member's area of the curriculum or related services is not being modified or discussed in the meeting.

(g) A member of the individualized education program team described in subdivision (f) may be excused from attending an individualized education program meeting, in whole or in part, when the meeting involves a modification to or discussion of the member's area of the curriculum or related services, if both of the following occur:

(1) The parent, in writing, and the local educational agency consent to the excusal after conferring with the member.

(2) The member submits, in writing, to the parent and the individualized education program team input into the development of the individualized education program prior to the meeting.

(h) A parent's agreement under subdivision (f) and consent under subdivision (g) shall be in writing.

(i) In the case of a child who was previously served under Chapter 4.4 (commencing with Section 56425), Early Education for Individuals with Exceptional Needs, or the California Early Intervention Services Act under Title 14 (commencing with Section 95000) of the Government Code, an invitation to the initial individualized education program team meeting shall, at the request of the parent, be sent to the infants and toddlers with disabilities service coordinator, as described in Subchapter

III (commencing with Section 1431) of the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), or other representatives of the early education or early intervention system to assist with the smooth transition of services.

SEC. 18. Section 56341.5 of the Education Code is amended to read:

56341.5. (a) Each local educational agency convening a meeting of the individualized education program team shall take steps to ensure that no less than one of the parents or guardians of the individual with exceptional needs are present at each individualized education program meeting or are afforded the opportunity to participate.

(b) Parents or guardians shall be notified of the individualized education program meeting early enough to ensure an opportunity to attend.

(c) The individualized education program meeting shall be scheduled at a mutually agreed-upon time and place. The notice of the meeting under subdivision (b) shall indicate the purpose, time, and location of the meeting and who shall be in attendance. Parents or guardians also shall be informed in the notice of the right, pursuant to Section 300.322(b)(1)(ii) of Title 34 of the Code of Federal Regulations, to bring other people to the meeting who have knowledge or special expertise regarding the individual with exceptional needs, and inform the parents of subdivision (i) of Section 56341 relating to the participation of the infants and toddlers with disabilities service coordinator under Subchapter III (commencing with Section 1431) of the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) at the initial individualized education program team meeting for a child previously served under the Subchapter III program.

(d) As part of the participation of an individual with exceptional needs in the development of an individualized education program, as required by federal law, the individual with exceptional needs shall be allowed to provide confidential input to any representative of his or her individualized education program team.

(e) For an individual with exceptional needs, beginning no later than the effective date of the individualized education program in effect when the individual reaches the age of 16 years, or younger if determined appropriate by the individualized education program team, the meeting notice also shall indicate that a purpose of the meeting will be the consideration of the postsecondary goals and transition services for the individual, pursuant to Section 56345.1 and Section 1414(d)(1)(A)(i)(VIII) of Title 20 of the United States Code, and the meeting notice shall indicate that the individual with exceptional needs is invited to attend. If the pupil does not attend the individualized education program meeting, the local educational agency shall take steps

to ensure that the preferences and interests of the pupil are considered in accordance with Section 300.321(b)(2) of Title 34 of the Code of Federal Regulations.

(f) The local educational agency, to the extent appropriate, with the consent of the parents or individual with exceptional needs who has reached the age of majority, and in accordance with Section 300.321(b)(3) of Title 34 of the Code of Federal Regulations, shall invite a representative of any participating agency that is likely to be responsible for providing or paying for transition services.

(g) Pursuant to Section 300.322(c) of Title 34 of the Code of Federal Regulations, if no parent or guardian can attend the meeting, the local educational agency shall use other methods to ensure parent or guardian participation, including individual or conference telephone calls, and consistent with Section 300.328 of Title 34 of the Code of Federal Regulations, the parent or guardian and the local educational agency may agree to use alternative means of meeting participation.

(h) A meeting may be conducted without a parent or guardian in attendance if the local educational agency is unable to convince the parent or guardian that he or she should attend. In this event, the local educational agency shall maintain a record of its attempts to arrange a mutually agreed-upon time and place, such as:

(1) Detailed records of telephone calls made or attempted and the results of those calls.

(2) Copies of correspondence sent to the parents or guardians and any responses received.

(3) Detailed records of visits made to the home or place of employment of the parent or guardian and the results of those visits.

(i) The local educational agency shall take any action necessary to ensure that the parent or guardian understands the proceedings at a meeting, including arranging for an interpreter for parents or guardians with deafness or whose native language is a language other than English.

(j) The local educational agency shall give the parent or guardian a copy of the individualized education program, at no cost to the parent or guardian.

SEC. 19. Section 56344 of the Education Code is amended to read:

56344. (a) An individualized education program required as a result of an assessment of a pupil shall be developed within a total time not to exceed 60 days, not counting days between the pupil's regular school sessions, terms, or days of school vacation in excess of five schooldays, from the date of receipt of the parent's written consent for assessment, unless the parent agrees, in writing, to an extension. However, an individualized education program required as a result of an assessment of a pupil shall be developed within 30 days after the commencement

of the subsequent regular school year as determined by each local educational agency's school calendar for each pupil for whom a referral has been made 30 days or less prior to the end of the regular school year. In the case of pupil school vacations, the 60-day time shall recommence on the date that pupil schooldays reconvene. A meeting to develop an initial individualized education program for the pupil shall be conducted within 30 days of a determination that the pupil needs special education and related services pursuant to Section 300.323(c)(1) of Title 34 of the Code of Federal Regulations.

(b) Pursuant to Section 300.323(c)(2) of Title 34 of the Code of Federal Regulations, as soon as possible following development of the individualized education program, special education and related services shall be made available to the individual with exceptional needs in accordance with the individual's individualized education program.

(c) Each local educational agency shall have an individualized education program in effect for each individual with exceptional needs within its jurisdiction at the beginning of each school year in accordance with subdivision (a) and pursuant to Section 300.323(a) and (b) of Title 34 of the Code of Federal Regulations.

SEC. 20. Section 56345 of the Education Code is amended to read:

56345. (a) The individualized education program is a written statement for each individual with exceptional needs that is developed, reviewed, and revised in accordance with this section, as required by Section 1414(d) of Title 20 of the United States Code, and that includes the following:

(1) A statement of the individual's present levels of academic achievement and functional performance, including the following:

(A) The manner in which the disability of the individual affects his or her involvement and progress in the general education curriculum.

(B) For preschool children, as appropriate, the manner in which the disability affects his or her participation in appropriate activities.

(C) For individuals with exceptional needs who take alternate assessments aligned to alternate achievement standards, a description of benchmarks or short-term objectives.

(2) A statement of measurable annual goals, including academic and functional goals, designed to do the following:

(A) Meet the needs of the individual that result from the disability of the individual to enable the pupil to be involved in and make progress in the general education curriculum.

(B) Meet each of the other educational needs of the pupil that result from the disability of the individual.

(3) A description of the manner in which the progress of the pupil toward meeting the annual goals described in paragraph (2) will be

measured and when periodic reports on the progress the pupil is making toward meeting the annual goals, such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards, will be provided.

(4) A statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the pupil, or on behalf of the pupil, and a statement of the program modifications or supports for school personnel that will be provided to enable the pupil to do the following:

(A) To advance appropriately toward attaining the annual goals.

(B) To be involved in and make progress in the general education curriculum in accordance with paragraph (1) and to participate in extracurricular and other nonacademic activities.

(C) To be educated and participate with other individuals with exceptional needs and nondisabled pupils in the activities described in this subdivision.

(5) An explanation of the extent, if any, to which the pupil will not participate with nondisabled pupils in the regular class and in the activities described in subparagraph (C) of paragraph (4).

(6) (A) A statement of individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the pupil on state and districtwide assessments consistent with Section 1412(a)(16)(A) of Title 20 of the United States Code.

(B) If the individualized education program team determines that the pupil shall take an alternate assessment instead of a particular state or districtwide assessment of pupil achievement, a statement of the following:

(i) The reason why the pupil cannot participate in the regular assessment.

(ii) The reason why the particular alternate assessment selected is appropriate for the pupil.

(7) The projected date for the beginning of the services and modifications described in paragraph (4), and the anticipated frequency, location, and duration of those services and modifications.

(8) Beginning not later than the first individualized education program to be in effect when the pupil is 16 years of age, or younger if determined appropriate by the individualized education program team, and updated annually thereafter, the following shall be included:

(A) Appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment, and where appropriate, independent living skills.

(B) The transition services, as defined in Section 56345.1, including courses of study, needed to assist the pupil in reaching those goals.

(b) If appropriate, the individualized education program shall also include, but not be limited to, all of the following:

(1) For pupils in grades 7 to 12, inclusive, any alternative means and modes necessary for the pupil to complete the prescribed course of study of the district and to meet or exceed proficiency standards for graduation.

(2) For individuals whose native language is other than English, linguistically appropriate goals, objectives, programs, and services.

(3) Pursuant to Section 300.106 of Title 34 of the Code of Federal Regulations, extended school year services shall be included in the individualized education program and provided to the pupil if the individualized education program team of the pupil determines, on an individual basis, that the services are necessary for the provision of a free appropriate public education to the pupil.

(4) Provision for the transition into the regular class program if the pupil is to be transferred from a special class or nonpublic, nonsectarian school into a regular class in a public school for any part of the schoolday, including the following:

(A) A description of activities provided to integrate the pupil into the regular education program. The description shall indicate the nature of each activity, and the time spent on the activity each day or week.

(B) A description of the activities provided to support the transition of pupils from the special education program into the regular education program.

(5) For pupils with low-incidence disabilities, specialized services, materials, and equipment, consistent with guidelines established pursuant to Section 56136.

(c) It is the intent of the Legislature in requiring individualized education programs, that the local educational agency is responsible for providing the services delineated in the individualized education program. However, the Legislature recognizes that some pupils may not meet or exceed the growth projected in the annual goals and objectives of the individualized education program of the pupil.

(d) Consistent with Section 56000.5 and Section 1414(d)(3)(B)(iv) of Title 20 of the United States Code, it is the intent of the Legislature that, in making a determination of the services that constitute an appropriate education to meet the unique needs of a deaf or hard-of-hearing pupil in the least restrictive environment, the individualized education program team shall consider the related services and program options that provide the pupil with an equal opportunity for communication access. The individualized education program team shall specifically discuss the communication needs of the pupil, consistent

with "Deaf Students Education Services Policy Guidance" (57 Fed. Reg. 49274 (October 1992)), including all of the following:

(1) The pupil's primary language mode and language, which may include the use of spoken language with or without visual cues, or the use of sign language, or a combination of both.

(2) The availability of a sufficient number of age, cognitive, and language peers of similar abilities, which may be met by consolidating services into a local plan areawide program or providing placement pursuant to Section 56361.

(3) Appropriate, direct, and ongoing language access to special education teachers and other specialists who are proficient in the pupil's primary language mode and language consistent with existing law regarding teacher training requirements.

(4) Services necessary to ensure communication-accessible academic instructions, school services, and extracurricular activities consistent with the federal Vocational Rehabilitation Act of 1973 (29 U.S.C. Sec. 794 et seq.) and the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.).

(5) In accordance with Section 300.113 of Title 34 of the Code of Federal Regulations, each public agency shall ensure that hearing aids worn in school by children with hearing impairments, including deafness, are functioning properly.

(6) Subject to paragraph (7), each public agency, pursuant to Section 300.113(b) of Title 34 of the Code of Federal Regulations, shall ensure that external components of surgically implanted medical devices are functioning properly.

(7) For a child with a surgically implanted medical device who is receiving special education and a service under Section 56363, a public agency is not responsible for the postsurgical maintenance, programming, or replacement of the medical device that has been surgically implanted, or of an external component of the surgically implanted medical device.

(e) State moneys appropriated to districts or local educational agencies may not be used for any additional responsibilities and services associated with paragraphs (1) and (2) of subdivision (d), including the training of special education teachers and other specialists, even if those additional responsibilities or services are required pursuant to a judicial or state agency determination. Those responsibilities and services shall only be funded by a local educational agency as follows:

(1) The costs of those activities shall be funded from existing programs and funding sources.

(2) Those activities shall be supported by the resources otherwise made available to those programs.

(3) Those activities shall be consistent with Sections 56240 to 56243, inclusive.

(f) It is the intent of the Legislature that the communication skills of teachers who work with hard-of-hearing and deaf children be improved. This section does not remove the discretionary authority of the local educational agency in regard to in-service activities.

(g) Beginning not later than one year before the pupil reaches the age of 18 years, a statement that the pupil has been informed of the pupil's rights under this part, if any, that will transfer to the pupil upon reaching the age of 18 years pursuant to Section 56041.5.

(h) The individualized education program team is not required to include information under one component of a pupil's individualized education program that is already contained under another component of the individualized education program.

(i) This section does not require that additional information, beyond that explicitly required by Section 1414 of Title 20 of the United States Code and this part, be included in the individualized education program of a pupil.

SEC. 21. Section 56345.1 of the Education Code is amended to read:

56345.1. (a) The term "transition services," as defined in Section 1401(34) of Title 20 of the United States Code and as used in subparagraph (B) of paragraph (8) of subdivision (a) of Section 56345, means a coordinated set of activities for an individual with exceptional needs that does all of the following:

(1) Is designed within an results-oriented process, that is focused on improving the academic and functional achievement of the individual with exceptional needs to facilitate the movement of the pupil from school to postschool activities, including postsecondary education, vocational education, integrated employment, including supported employment, continuing and adult education, adult services, independent living, or community participation.

(2) Is based upon the individual needs of the pupil, taking into account the strengths, preferences, and interests of the pupil.

(3) Includes instruction, related services, community experiences, the development of employment and other postschool adult living objectives, and, if appropriate, acquisition of daily living skills and provision of a functional vocational evaluation.

(b) In accordance with Section 300.43(b) of Title 34 of the Code of Federal Regulations, transition services for individuals with exceptional needs may be special education, if provided as specially designed instruction, or a designated instruction and service, if required to assist a pupil to benefit from special education.

(c) If a participating agency, other than the local educational agency, fails to provide the transition services described in the individualized education program of the pupil in accordance with Section 1414(d)(6) of Title 20 of the United States Code and paragraph (8) of subdivision (a) of Section 56345, the local educational agency shall reconvene the individualized education program team to identify alternative strategies to meet the transition service needs for the pupil set out in the program.

SEC. 22. Section 56345.2 is added to the Education Code, to read:

56345.2. (a) Pursuant to Section 300.107 of Title 34 of the Code of Federal Regulations, each public agency shall take steps, including the provision of supplementary aids and services determined appropriate and necessary by the individualized education program team of the individual with exceptional needs, to provide nonacademic and extracurricular services and activities in the manner necessary to afford individuals with exceptional needs an equal opportunity for participation in those services and activities.

(b) Nonacademic and extracurricular services and activities may include counseling services, athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the public agency, referrals to agencies that provide assistance to individuals with exceptional needs, and employment of pupils, including both employment by the public agency and assistance in making outside employment available.

(c) Pursuant to Section 300.117 of Title 34 of the Code of Federal Regulations, each public agency shall ensure that each individual with exceptional needs participates with nondisabled children in extracurricular services and activities to the maximum extent appropriate to the needs of that individual. Each public agency shall ensure that each individual with exceptional needs has the supplementary aids and services determined by the individualized education program team of the individual to be appropriate and necessary for the individual to participate in nonacademic settings.

SEC. 23. Section 56346 of the Education Code is amended to read:

56346. (a) A local educational agency that is responsible for making a free appropriate public education and related services to the child with a disability under this part shall seek to obtain informed consent from the parent of the child before providing special education and related services to the child pursuant to Section 1414(a)(1)(D)(i)(II) of Title 20 of the United States Code. The local educational agency shall make reasonable efforts to obtain informed consent from the parent for the initial provision of special education and related services to the child in accordance with Section 300.300(b)(2) of Title 34 of the Code of Federal Regulations.

(b) If the parent of the child fails to respond or refuses to consent to the initiation of services pursuant to subdivision (a), the local educational agency shall not provide special education and related services to the child by utilizing the procedures in Section 1415 of Title 20 of the United States Code or the procedures in subdivision (e) of Section 56506 in order to obtain agreement or a ruling that the services may be provided to the child.

(c) If the parent of the child refuses to consent to the initial provision of special education and related services, or the parent fails to respond to a request to provide the consent, both of the following are applicable:

(1) The local educational agency shall not be considered to be in violation of the requirement to make available a free appropriate public education to the child for the failure to provide the child with the special education and related services for which the local educational agency requests consent.

(2) The local educational agency shall not be required to convene an individualized education program team meeting or develop an individualized education program under this part for the child for the special education and related services for which the local educational agency requests consent.

(d) If the parent or guardian of a child who is an individual with exceptional needs refuses all services in the individualized education program after having consented to those services in the past, the local educational agency shall file a request for due process pursuant to Chapter 5 (commencing with Section 56500).

(e) If the parent of the child consents in writing to the receipt of special education and related services for the child but does not consent to all of the components of the individualized education program, those components of the program to which the parent has consented shall be implemented so as not to delay providing instruction and services to the child.

(f) With the exception of a parent of a child who fails to respond pursuant to subdivision (b), or refuses to consent to services pursuant to subdivision (b), if the local educational agency determines that the proposed special education program component to which the parent does not consent is necessary to provide a free appropriate public education to the child, a due process hearing shall be initiated in accordance with Section 1415(f) of Title 20 of the United States Code. If a due process hearing is held, the hearing decision shall be the final administrative determination and shall be binding upon the parties. While a resolution session, mediation conference, or due process hearing is pending, the child shall remain in his or her current placement, unless the parent and the local educational agency agree otherwise.

(g) In accordance with Section 300.300(d)(4)(i) of Title 34 of the Code of Federal Regulations, if the parent of a child who is home schooled or placed in a private school by the parents at their own expense does not provide consent for the initial assessment or the reassessment, or the parent fails to respond to a request to provide consent, the local educational agency may not use the consent override procedures described in Section 300.300(a)(3) and (c)(1) of Title 34 of the Code of Federal Regulations. The local educational agency is not required to consider the child as eligible for services under Article 5.6 (commencing with Section 56170) of Chapter 2.

SEC. 24. Section 56363 of the Education Code is amended to read:

56363. (a) As used in this part, the term "designated instruction and services" means "related services" as that term is defined in Section 1401(26) of Title 20 of the United States Code and Section 300.34 of Title 34 of the Code of Federal Regulations. The term "related services" means transportation, and such developmental, corrective, and other supportive services (including speech-language pathology and audiology services, interpreting services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, social work services, school nurse services designed to enable an individual with exceptional needs to receive a free appropriate public education as described in the individualized education program of the child, counseling services, including rehabilitation counseling, orientation and mobility services, and medical services, except that such medical services shall be for diagnostic and evaluation purposes only) as may be required to assist an individual with exceptional needs to benefit from special education, and includes the early identification and assessment of disabling conditions in children.

(b) These services may include, but are not limited to, the following:

(1) Language and speech development and remediation. The language and speech development and remediation services may be provided by a speech-language pathology assistant as defined in subdivision (f) of Section 2530.2 of the Business and Professions Code.

(2) Audiological services.

(3) Orientation and mobility services.

(4) Instruction in the home or hospital.

(5) Adapted physical education.

(6) Physical and occupational therapy.

(7) Vision services.

(8) Specialized driver training instruction.

(9) Counseling and guidance services, including rehabilitation counseling.

(10) Psychological services other than assessment and development of the individualized education program.

(11) Parent counseling and training.

(12) Health and nursing services, including school nurse services designed to enable an individual with exceptional needs to receive a free appropriate public education as described in the individualized education program.

(13) Social worker services.

(14) Specially designed vocational education and career development.

(15) Recreation services.

(16) Specialized services for low-incidence disabilities, such as readers, transcribers, and vision and hearing services.

(17) Interpreting services.

(c) The terms "designated instruction and services" and "related services" do not include a medical device that is surgically implanted, including cochlear implants, the optimization of the functioning of a medical device, maintenance of that device, or the replacement of that device, pursuant to Section 300.34(b) of Title 34 of the Code of Federal Regulations. In accordance with Section 300.34(b) of Title 34 of the Code of Federal Regulations, nothing in this subdivision shall do any of the following:

(1) Limit the right of an individual with exceptional needs with a surgically implanted device, including a cochlear implant, to receive related services or designated instruction and services that are determined by the individualized education program team to be necessary for the individual to receive a free appropriate public education.

(2) Limit the responsibility of a local educational agency to appropriately monitor and maintain medical devices that are needed to maintain the health and safety of the individual, including breathing, nutrition, or operation of other bodily functions, while the individual is transported to and from school or is at school.

(3) Prevent the routine checking of an external component of a surgically implanted device to make sure it is functioning properly, as required by Section 300.113(b) of Title 34 of the Code of Federal Regulations.

SEC. 25. Section 56380.1 of the Education Code is amended to read:

56380.1. (a) In making changes to a pupil's individualized education program after the annual individualized education program meeting for a school year, the parent of the individual with exceptional needs and the local educational agency may agree, pursuant to Section 1414(d)(3)(D) of Title 20 of the United States Code, not to convene an individualized education program meeting for the purposes of making those changes, and instead may develop a written document, signed by

the parent and by a representative of the local educational agency, to amend or modify the pupil's existing individualized education program.

(b) Changes to the individualized education program may be made, in accordance with Section 1414(d)(3)(F) of Title 20 of the United States Code and Section 300.324(a)(6) of Title 34 of the Code of Federal Regulations, either by the entire individualized education program team at an individualized education program team meeting, or, as provided in subdivision (a), by amending the individualized education program rather than by redrafting the entire individualized education program. Upon request, a parent shall be provided with a revised copy of the individualized education program with the amendments incorporated.

(c) If changes are made to the pupil's individualized education program, in accordance with subdivisions (a) and (b), the local educational agency shall ensure that the pupil's individualized education program team is informed of those changes as required by Section 300.324(a)(4)(ii) of Title 34 of the Code of Federal Regulations.

SEC. 26. Section 56381 of the Education Code is amended to read:

56381. (a) (1) A reassessment of the pupil, based upon procedures specified in Section 56302.1 and in Article 2 (commencing with Section 56320), and in accordance with Section 1414(a), (b), and (c) of Title 20 of the United States Code, shall be conducted if the local educational agency determines that the educational or related services needs, including improved academic achievement and functional performance, of the pupil warrant a reassessment, or if the pupil's parents or teacher requests a reassessment.

(2) A reassessment shall occur not more frequently than once a year, unless the parent and the local educational agency agree otherwise, and shall occur at least once every three years, unless the parent and the local educational agency agree, in writing, that a reassessment is unnecessary.

If the reassessment so indicates, a new individualized education program shall be developed.

(b) As part of a reassessment, the individualized education program team and other qualified professionals, as appropriate, shall do the following:

(1) Review existing assessment data on the pupil, including assessments and information provided by the parents of the pupil, as specified in Section 300.305(a)(1)(i) of Title 34 of the Code of Federal Regulations, current classroom-based assessments and observations, and teacher and related services providers' observations.

(2) On the basis of the review conducted pursuant to paragraph (1), and input from the parents of the pupil, identify what additional data, if any, is needed to determine:

(A) Whether the pupil continues to have a disability described in Section 1401(3) of Title 20 of the United States Code.

(B) The present levels of performance and educational needs of the pupil.

(C) Whether the pupil continues to need special education and related services.

(D) Whether any additions or modifications to the special education and related services are needed to enable the pupil to meet the measurable annual goals set out in the individualized education program of the pupil and to participate, as appropriate, in the general curriculum.

(c) The local educational agency shall administer tests and other assessment materials needed to produce the data identified by the individualized education program team.

(d) If the individualized education program team and other qualified professionals, as appropriate, determine that no additional data is needed to determine whether the pupil continues to be an individual with exceptional needs, and to determine the educational needs of the pupil, the local educational agency shall notify the parents of the pupil of that determination and the reasons for it, and the right of the parents to request an assessment to determine whether the pupil continues to be an individual with exceptional needs, and to determine the educational needs of the pupil. The local educational agency is not required to conduct an assessment, unless requested by the parents of the pupil.

(e) A local educational agency shall assess an individual with exceptional needs in accordance with this section and procedures specified in Article 2 (commencing with Section 56320), as provided in Section 300.306(c)(2) of Title 34 of the Code of Federal Regulations.

(f) (1) A reassessment may not be conducted, unless the written consent of the parent is obtained prior to reassessment, except pursuant to subdivision (e) of Section 56506. Pursuant to Section 300.300(c)(1) and (2) of Title 34 of the Code of Federal Regulations, informed parental consent need not be obtained for the reassessment of an individual with exceptional needs if the local educational agency can demonstrate that it has taken reasonable measures to obtain that consent and the parent of the child has failed to respond.

(2) To meet the reasonable measure requirements of this subdivision, the local educational agency shall use procedures consistent with those set forth in Section 300.322(d) of Title 34 of the Code of Federal Regulations.

(3) If the parent refuses to consent to the reassessment, the local educational agency may, but is not required to, pursue the reassessment by using the consent override procedures described in Section 300.300(a)(3) of Title 34 of the Code of Federal Regulations.

(4) The local educational agency does not violate its obligations under Section 300.111 and Sections 300.301 to 300.311, inclusive, of Title 34 of the Code of Federal Regulations if it declines to pursue the reassessment.

(g) The individualized education program team and other qualified professionals referenced in subdivision (b) may conduct the review without a meeting, as provided in Section 300.305(b) of Title 34 of the Code of Federal Regulations.

(h) Before determining that the individual is no longer an individual with exceptional needs, a local educational agency shall assess the individual in accordance with Section 56320 and this section, as appropriate, and in accordance with Section 1414 of Title 20 of the United States Code.

(i) (1) The assessment described in subdivision (h) shall not be required before the termination of a pupil's eligibility under this part due to graduation from secondary school with a regular diploma, or due to exceeding the age eligibility for a free appropriate public education under Section 56026.

(2) For a pupil whose eligibility under this part terminates under circumstances described in paragraph (1), a local educational agency shall provide the pupil with a summary of the academic achievement and functional performance of the pupil, which shall include recommendations on the manner in which to assist the pupil in meeting his or her postsecondary educational goals as required in Section 1414(c)(5)(B)(ii) of Title 20 of the United States Code.

(j) To the extent possible, the local educational agency shall encourage the consolidation of reassessment meetings for the individual with exceptional needs and other individualized education program team meetings for the individual.

SEC. 27. Section 56500.2 of the Education Code is amended to read:

56500.2. (a) (1) Notwithstanding any other provision of law, a complaint filed with the department regarding any alleged violations of the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), or implementing regulations (Part 300 (commencing with Section 300.1) of Title 34 of the Code of Federal Regulations), or a provision of this part, shall be investigated in an expeditious and effective manner in accordance with Sections 300.151 to 300.153, inclusive, of Title 34 of the Code of Federal Regulations. A written decision shall be issued to the complainant in accordance with the 60-day time limit specified in Section 300.152 of Title 34 of the Code of Federal Regulations.

(2) The party filing the complaint shall forward a copy of the complaint to the local educational agency or public agency serving the

child at the same time the party files the complaint with the department, in accordance with Section 300.153(d) of Title 34 of the Code of Federal Regulations.

(b) Pursuant to Section 300.153(c) of Title 34 of the Code of Federal Regulations, a complaint filed under subdivision (a) shall allege a violation that occurred not more than one year prior to the date that the complaint is received by the department.

(c) The complaint shall include all of the following:

(1) A statement that a local educational agency or public agency has violated a requirement of this part or Part B of the federal Individuals with Disabilities Education Act (Title 20 (commencing with Section 1400) of the United States Code), or Part 300 (commencing with Section 300.1) of Title 34 of the Code of Federal Regulations.

(2) The facts on which the statement is based.

(3) The signature and contact information for the complainant.

(4) If alleging violations with respect to a specific child, all of the following:

(A) The name and address of residence of the child.

(B) The name of the school the child is attending.

(C) In the case of a homeless child or youth within the meaning of paragraph (2) of Section 725 of the federal McKinney-Vento Homeless Assistance Act (42 U.S.C. Sec. 11434a(2)), available contact information for the child, and the name of the school the child is attending.

(D) A description of the nature of the problem of the child, including facts relating to the problems.

(E) A proposed resolution of the problem to the extent known and available to the party at the time the complaint is filed.

(d) The Superintendent shall develop a model form, pursuant to Section 300.509 of Title 34 of the Code of Federal Regulations, to assist parents and public agencies in filing a state complaint under this section.

SEC. 28. Section 56500.3 of the Education Code is amended to read:

56500.3. (a) It is the intent of the Legislature that parties to special education disputes be encouraged to seek resolution through mediation prior to filing a request for a due process hearing. It is also the intent of the Legislature that these voluntary prehearing request mediation conferences be an informal process conducted in a nonadversarial atmosphere to resolve issues relating to the identification, assessment, or educational placement of the child, or the provision of a free appropriate public education to the child, to the satisfaction of both parties. Therefore, attorneys or other independent contractors used to provide legal advocacy services may not attend or otherwise participate in the prehearing request mediation conferences.

(b) This part does not preclude the parent or the public agency from being accompanied and advised by nonattorney representatives in the mediation conferences and consulting with an attorney prior to or following a mediation conference. For purposes of this section, "attorney" means an active, practicing member of the State Bar of California or another independent contractor used to provide legal advocacy services, but does not mean a parent of the pupil who is also an attorney.

(c) Requesting or participating in a mediation conference is not a prerequisite to requesting a due process hearing.

(d) All requests for a mediation conference shall be filed with the Superintendent. The party initiating a mediation conference by filing a written request with the Superintendent shall provide the other party to the mediation with a copy of the request at the same time the request is filed with the Superintendent. The mediation conference shall be conducted by a person knowledgeable in the process of reconciling differences in a nonadversarial manner and under contract with the department pursuant to Section 56504.5. The mediator shall be knowledgeable in the laws and regulations governing special education.

(e) The prehearing mediation conference shall be scheduled within 15 days of receipt by the Superintendent of the request for mediation. The mediation conference shall be completed within 30 days after receipt of the request for mediation unless both parties to the prehearing mediation conference agree to extend the time for completing the mediation. Pursuant to Section 300.506(b)(4) of Title 34 of the Code of Federal Regulations, and to encourage the use of mediation, the state shall bear the cost of the mediation process, including any meetings described in Section 300.506(b)(2) of Title 34 of the Code of Federal Regulations. The costs of mediation shall be included in the contract described in Section 56504.5.

(f) In accordance with Section 1415(e)(2)(F) of Title 20 of the United States Code, if a resolution is reached that resolves the due process issue through the mediation process, the parties shall execute a legally binding written agreement that sets forth the resolution and that does the following:

(1) States that all discussions that occurred during the mediation process shall be confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding.

(2) Is signed by both the parent and the representative of the public agency who has the authority to bind the agency.

(3) Is enforceable in any state court of competent jurisdiction or in a federal district court of the United States.

(g) If the mediation conference fails to resolve the issues to the satisfaction of all parties, the party who requested the mediation

conference has the option of filing for a state-level hearing pursuant to Section 56505. The mediator may assist the parties in specifying any unresolved issues to be included in the hearing request.

(h) Any mediation conference held pursuant to this section shall be scheduled in a timely manner and shall be held at a time and place reasonably convenient to the parties to the dispute in accordance with Section 300.506(b)(5) of Title 34 of the Code of Federal Regulations.

(i) The mediation conference shall be conducted in accordance with regulations adopted by the board.

(j) (1) Notwithstanding any procedure set forth in this chapter, a public agency and a parent, if the party initiating the mediation conference so chooses, may meet informally to resolve any issue or issues to the satisfaction of both parties prior to the mediation conference.

(2) In accordance with Section 300.506(b)(2) of Title 34 of the Code of Federal Regulations, a public agency may establish procedures to offer to parents and schools that choose not to use the mediation process, an opportunity to meet, at a time and location convenient to the parents, with a disinterested party as follows:

(A) Who is under contract with an appropriate alternative dispute resolution entity, or a parent training and information center or community parent resource center in the state established under Section 1471 or Section 1472 of Title 20 of the United States Code.

(B) Who would explain the benefits of, and encourage the use of, the mediation process to the parents.

(k) The procedures and rights contained in this section shall be included in the notice of parent rights attached to the assessment plan of the pupil pursuant to Section 56321.

SEC. 29. Section 56500.4 of the Education Code is amended to read:

56500.4. (a) Pursuant to Section 1415(b)(3) and (4) and (c)(1) of Title 20 of the United States Code, and in accordance with Section 300.503 of Title 34 of the Code of Federal Regulations, prior written notice shall be given by the public agency to the parents or guardians of an individual with exceptional needs, or to the parents or guardians of a child upon initial referral for assessment, and a reasonable time before the public agency proposes to initiate or change, or refuses to initiate or change, the identification, assessment, or educational placement of the child, or the provision of a free appropriate public education to the child. In accordance with Sections 300.304 and 300.503 of Title 34 of the Code of Federal Regulations, the public agency shall provide a description of any assessment procedures the agency proposes to conduct.

(b) The notice required under subdivision (a) shall, in accordance with Section 300.503(b) of Title 34 of the Code of Federal Regulations, include all of the following:

(1) A description of the action proposed or refused by the public agency.

(2) An explanation of why the public agency proposes or refuses to take the action.

(3) A description of each assessment procedure, assessment, record, or report the public agency used as a basis for the proposed or refused action.

(4) A statement that the parents of an individual with exceptional needs have protection under the procedural safeguards of this part and, if this notice is not an initial referral for assessment, the means by which a copy of a description of the procedural safeguards can be obtained.

(5) Sources for parents to contact to obtain assistance in understanding the provisions of this part.

(6) A description of other options that the individualized education program team considered and the reasons why those options were rejected.

(7) A description of other factors that are relevant to the proposal or refusal of the agency.

SEC. 30. Section 56501.5 of the Education Code is amended to read:

56501.5. (a) Notwithstanding any other provision of law, prior to the opportunity for an impartial due process hearing under this chapter, the local educational agency shall convene a resolution meeting with the parents and the relevant member or members of the individualized education program team who have specific knowledge of the facts identified in the due process hearing request, in accordance with Section 1415(f)(1)(B) of Title 20 of the United States Code and Section 300.510 of Title 34 of the Code of Federal Regulations. The parent and the local educational agency shall determine the relevant members of the individualized education program team to attend the meeting.

(1) The meeting shall be convened within 15 days of receiving notice of the due process hearing request of the parent.

(2) The meeting shall include a representative of the local educational agency who has decisionmaking authority on behalf of the agency.

(3) The meeting shall not include an attorney of the local educational agency, unless the parent is accompanied by an attorney.

(4) The purpose of the meeting is for the parent of the child to discuss the due process hearing issue, and the facts that form the basis of the due process hearing request, so that the local educational agency has the opportunity to resolve the dispute that is the basis for the due process hearing request.

(b) The resolution meeting described in subdivision (a) need not be held if the parents and the local educational agency agree in writing to

waive the meeting, or agree to use the mediation process as provided for in this chapter.

(c) If the local educational agency has not resolved the due process hearing issue to the satisfaction of the parents within 30 days of the receipt of the due process hearing request notice, the due process hearing may occur. Except as provided in subdivision (d), the timeline for issuing a final decision under paragraph (3) of subdivision (f) of Section 56505 begins at the expiration of this 30-day period.

(d) The 45-day timeline for the due process hearing cited in paragraph (3) of subdivision (f) of Section 56505 starts the day after one of the following events, provided the local educational agency also affords notice of these events to the agency or contractor providing due process hearings pursuant to Section 56504.5:

(1) Both parties agree in writing to waive the resolution meeting.

(2) After either the mediation or resolution meeting starts but before the end of the 30-day resolution period, the parties agree in writing that no agreement is possible.

(3) If both parties agree in writing to continue a mediation that started before the end of the 30-day resolution period to a date after the 30-day resolution period, but later, the parent or local educational agency withdraws from the mediation process.

(e) Except where the parties have jointly agreed to waive the resolution process or to use mediation, notwithstanding subdivision (c), the failure of the parent filing a due process hearing request to participate in the resolution meeting will delay the timelines for the resolution process and due process hearing until the meeting is held.

(1) If the local educational agency is unable to obtain the participation of the parent in the resolution meeting after reasonable efforts have been made and documented using the procedures in Section 300.322(d) of Title 34 of the Code of Federal Regulations, such as detailed records of telephone calls made or attempted and the results of those calls, copies of correspondence sent to the parent and any responses received, and detailed records of visits made to the home or place of employment of the parent, the local educational agency may, at the conclusion of the 30-day period, request that a hearing officer dismiss the due process hearing request of the parent.

(2) If the local educational agency fails to hold the resolution meeting specified in subdivision (a) within 15 days of receiving notice of a due process hearing request of a parent or fails to participate in the resolution meeting, the parent may seek the intervention of a hearing officer to begin the due process hearing timeline.

(f) In the case that a resolution is reached to resolve the due process hearing issue at a meeting described in subdivision (a), the parties shall execute a legally binding agreement that is both of the following:

(1) Signed by both the parent and a representative of the local educational agency who has the authority to bind the agency.

(2) Enforceable in a state court of competent jurisdiction or in a federal district court of the United States.

(g) If the parties execute an agreement pursuant to subdivision (d), a party may void the agreement within three business days of the execution of the agreement.

SEC. 31. Section 56502 of the Education Code is amended to read:

56502. (a) All requests for a due process hearing shall be filed with the Superintendent in accordance with Section 300.508(a) and (b) of Title 34 of the Code of Federal Regulations.

(b) The Superintendent shall develop a model form to assist parents and guardians in filing a request for due process that is in accordance with Section 300.509 of Title 34 of the Code of Federal Regulations.

(c) (1) The party, or the attorney representing the party, initiating a due process hearing by filing a written request with the Superintendent shall provide the other party to the hearing with a copy of the request at the same time as the request is filed with the Superintendent. The due process hearing request notice shall remain confidential. In accordance with Section 1415(b)(7)(A) of Title 20 of the United States Code, the request shall include the following:

(A) The name of the child, the address of the residence of the child, or available contact information in the case of a homeless child, and the name of the school the child is attending.

(B) In the case of a homeless child or youth within the meaning of paragraph (2) of Section 725 of the federal McKinney-Vento Homeless Assistance Act (42 U.S.C. Sec. 11434a(2)), available contact information for the child and the name of the school the child is attending.

(C) A description of the nature of the problem of the child relating to the proposed initiation or change, including facts relating to the problem.

(D) A proposed resolution of the problem to the extent known and available to the party at the time.

(2) A party may not have a due process hearing until the party, or the attorney representing the party, files a request that meets the requirements listed in this subdivision.

(d) (1) The due process hearing request notice required by Section 1415(b)(7)(A) of Title 20 of the United States Code shall be deemed to be sufficient unless the party receiving the notice notifies the due process hearing officer and the other party in writing that the receiving party believes the due process hearing request notice has not met the notice

requirements. The party providing a hearing officer notification shall provide the notification within 15 days of receiving the due process hearing request notice. Within five days of receipt of the notification, the hearing officer shall make a determination on the face of the notice of whether the notification meets the requirements of Section 1415(b)(7)(A) of Title 20 of the United States Code, and shall immediately notify the parties in writing of the determination.

(2) (A) The response to the due process hearing request notice shall be made within 10 days of receiving the request notice in accordance with Section 1415(c)(2)(B) of Title 20 of the United States Code.

(B) In accordance with Section 300.508(e)(1) of Title 34 of the Code of Federal Regulations, if the local educational agency has not sent a prior written notice under Section 56500.4 and Section 300.503 of Title 34 of the Code of Federal Regulations to the parent regarding the subject matter contained in the due process hearing request of the parent, the response from the local educational agency to the parent shall include all of the following:

(i) An explanation of why the agency proposed or refused to take the action raised in the due process hearing request.

(ii) A description of other options that the individualized education program team considered and the reasons why those options were rejected.

(iii) A description of each assessment procedure, assessment, record, or report the agency used as the basis for the proposed or refused action.

(iv) A description of other factors that are relevant to the proposed or refused action of the agency.

(C) A response by a local educational agency under subparagraph (B) shall not be construed to preclude the local educational agency from asserting that the due process request of the parent was insufficient, where appropriate.

(D) Except as provided under subparagraph (B), the party receiving a due process hearing request notice, within 10 days of receiving the notice, shall send to the other party, in accordance with Section 300.508(f) of Title 34 of the Code of Federal Regulations, a response that specifically addresses the issues raised in the due process hearing request notice.

(e) A party may amend a due process hearing request notice only if the other party consents in writing to the amendment and is given the opportunity to resolve the hearing issue through a meeting held pursuant to Section 1415(f)(1)(B) of Title 20 of the United States Code, or the due process hearing officer grants permission, except that the hearing officer may only grant permission at any time not later than five days before a due process hearing occurs. The applicable timeline for a due

process hearing under this chapter shall recommence at the time the party files an amended notice, including the timeline under Section 1415(f)(1)(B) of Title 20 of the United States Code.

(f) The Superintendent shall take steps to ensure that within 45 days after receipt of the written hearing request the hearing is immediately commenced and completed, including, any mediation requested at any point during the hearing process pursuant to paragraph (2) of subdivision (b) of Section 56501, and a final administrative decision is rendered, unless a continuance has been granted pursuant to Section 56505.

(g) Notwithstanding any procedure set forth in this chapter, a public agency and a parent or guardian, if the party initiating the hearing so chooses, may meet informally to resolve an issue or issues relating to the identification, assessment, or education and placement of the child, or the provision of a free appropriate public education to the child, to the satisfaction of both parties prior to the hearing. The informal meeting shall be conducted by the district superintendent, county superintendent, or director of the public agency or his or her designee. A designee appointed pursuant to this subdivision shall have the authority to resolve the issue or issues.

(h) Upon receipt by the Superintendent of a written request by the parent or guardian or public agency, the Superintendent or his or her designee or designees immediately shall notify, in writing, all parties of the request for the hearing and the scheduled date for the hearing. The notice shall advise all parties of all their rights relating to procedural safeguards. The Superintendent or his or her designee shall provide both parties with a list of persons and organizations within the geographical area that can provide free or reduced cost representation or other assistance in preparing for the due process hearing. This list shall include a brief description of the requirement to qualify for the services. The Superintendent or his or her designee shall have complete discretion in determining which individuals or groups shall be included on the list.

(i) In accordance with Section 1415(f)(3)(B) of Title 20 of the United States Code, the party requesting the due process hearing shall not be allowed to raise issues at the due process hearing that were not raised in the notice filed under this section, unless the other party agrees otherwise.

SEC. 32. Section 56505 of the Education Code is amended to read:

56505. (a) The state hearing shall be conducted in accordance with regulations adopted by the board.

(b) The hearing shall be held at a time and place reasonably convenient to the parent or guardian and the pupil.

(c) (1) The hearing shall be conducted by a person who, at a minimum, shall possess knowledge of, and the ability to understand, the provisions of this part and related state statutes and implementing

regulations, the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), federal regulations pertaining to the act, and legal interpretations of this part and the federal law by federal and state courts, and who has satisfactorily completed training pursuant to this subdivision. The Superintendent shall establish standards for the training of hearing officers, the degree of specialization of the hearing officers, and the quality control mechanisms to be used to ensure that the hearings are fair and the decisions are accurate.

(2) The hearing officer shall possess the knowledge and ability to conduct hearings in accordance with appropriate, standard legal practice.

(3) The hearing officer shall possess the knowledge and ability to render and write decisions in accordance with appropriate, standard legal practice.

(4) A due process hearing shall not be conducted by an individual listed in Section 1415(f)(3)(A)(i) of Title 20 of the United States Code. Pursuant to Section 300.511(c)(2) of Title 34 of the Code of Federal Regulations, a person who is qualified to conduct a hearing is not an employee of the agency solely because he or she is paid by the agency to serve as a hearing officer. The hearing officer shall encourage the parties to a hearing to consider the option of mediation as an alternative to a hearing.

(d) Pursuant to Section 300.518(a) of Title 34 of the Code of Federal Regulations, during the pendency of the hearing proceedings, including the actual state-level hearing, or judicial proceeding regarding a due process hearing, the pupil shall remain in his or her present placement, except as provided in Section 300.533 of Title 34 of the Code of Federal Regulations, unless the public agency and the parent or guardian agree otherwise. A pupil applying for initial admission to a public school, with the consent of his or her parent or guardian, shall be placed in the public school program until all proceedings have been completed. As provided in Section 300.518(d) of Title 34 of the Code of Federal Regulations, if the decision of a hearing officer in a due process hearing or a state review official in an administrative appeal agrees with the parent or guardian of the pupil that a change of placement is appropriate, that placement shall be treated as an agreement between the state or local educational agency and the parent or guardian. In accordance with Section 300.518(c) of Title 34 of the Code of Federal Regulations, if a due process hearing request involves an application for initial services from a child who is transitioning from an early education program under Chapter 4.4 (commencing with Section 56425) to a special education program serving individuals with exceptional needs between the ages of three to five years, inclusive, under Chapter 4.45 (commencing with Section 56440), and is no longer eligible for early education services because the child

has turned three years of age, the local educational agency is not required to provide early education services that the child had been receiving. If the child is found eligible for special education and related services for children age three years of age and older, and the parent or guardian consents to the initial provision of special education and related services under Section 300.300(b) of Title 34 of the Code of Federal Regulations, the local educational agency shall provide those special education and related services that are not in dispute between the parent or guardian and the local educational agency.

(e) A party to the hearing held pursuant to this section shall be afforded the following rights consistent with state and federal statutes and regulations:

(1) The right to be accompanied and advised by counsel and by individuals with special knowledge or training relating to the problems of individuals with exceptional needs.

(2) The right to present evidence, written arguments, and oral arguments.

(3) The right to confront, cross-examine, and compel the attendance of, witnesses.

(4) The right to a written, or, at the option of the parents or guardians, electronic verbatim record of the hearing.

(5) The right to written, or, at the option of the parent or guardian, electronic findings of fact and decisions. The record of the hearing and the findings of fact and decisions shall be provided at no cost to parents or guardians in accordance with Section 300.512(c)(3) of Title 34 of the Code of Federal Regulations. The findings and decisions shall be made available to the public after any personally identifiable information has been deleted consistent with the confidentiality requirements of Section 1417(c) of Title 20 of the United States Code and shall also be transmitted to the Advisory Commission on Special Education pursuant to Section 1415(h)(4) of Title 20 of the United States Code.

(6) The right to be informed by the other parties to the hearing, at least 10 days prior to the hearing, as to what those parties believe are the issues to be decided at the hearing and their proposed resolution of those issues. Upon the request of a parent who is not represented by an attorney, the agency responsible for conducting hearings shall provide a mediator to assist the parent in identifying the issues and the proposed resolution of the issues.

(7) The right to receive from other parties to the hearing, at least five business days prior to the hearing, a copy of all documents and a list of all witnesses and their general area of testimony that the parties intend to present at the hearing. Included in the material to be disclosed to all parties at least five business days prior to a hearing shall be all

assessments completed by that date and recommendations based on the assessments that the parties intend to use at the hearing.

(8) The right, pursuant to Section 300.512(a)(3) of Title 34 of the Code of Federal Regulations, to prohibit the introduction of any evidence at the hearing that has not been disclosed to that party at least five business days before the hearing.

(f) (1) In accordance with Section 1415(f)(3)(E) of Title 20 of the United States Code, the decision of a due process hearing officer shall be made on substantive grounds based on a determination of whether the child received a free appropriate public education.

(2) In matters alleging a procedural violation, a due process hearing officer may find that a child did not receive a free appropriate public education only if the procedural violation did any of the following:

(A) Impeded the right of the child to a free appropriate public education.

(B) Significantly impeded the opportunity of the parents to participate in the decisionmaking process regarding the provision of a free appropriate public education to the child of the parents.

(C) Caused a deprivation of educational benefits.

(3) The hearing conducted pursuant to this section shall be completed and a written, reasoned decision, including the reasons for a nonpublic, nonsectarian school placement, the provision of nonpublic, nonsectarian agency services, or the reimbursement for the placement or services, taking into account the requirements of subdivision (a) of Section 56365, shall be mailed to all parties to the hearing not later than 45 days after the expiration of the 30-day period pursuant to subdivision (c) of Section 56501.5. Either party to the hearing may request the hearing officer to grant an extension. The extension shall be granted upon a showing of good cause. An extension shall extend the time for rendering a final administrative decision for a period only equal to the length of the extension.

(4) This subdivision does not preclude a due process hearing officer from ordering a local educational agency to comply with procedural requirements under this chapter.

(g) Subdivision (f) does not alter the burden of proof required in a due process hearing, or prevent a hearing officer from ordering a compensatory remedy for an individual with exceptional needs.

(h) The hearing conducted pursuant to this section shall be the final administrative determination and binding on all parties.

(i) In decisions relating to the placement of individuals with exceptional needs, the person conducting the state hearing shall consider cost, in addition to all other factors that are considered.

(j) In a hearing conducted pursuant to this section, the hearing officer shall not base a decision solely on nonsubstantive procedural errors, unless the hearing officer finds that the nonsubstantive procedural errors resulted in the loss of an educational opportunity to the pupil or interfered with the opportunity of the parent or guardian of the pupil to participate in the formulation process of the individualized education program.

(k) This chapter does not preclude a party aggrieved by the findings and decisions in a hearing under this section from exercising the right to appeal the decision to a state court of competent jurisdiction. An aggrieved party also may exercise the right to bring a civil action in a district court of the United States without regard to the amount in controversy, pursuant to Section 300.516 of Title 34 of the Code of Federal Regulations. An appeal shall be made within 90 days of receipt of the hearing decision. During the pendency of an administrative or judicial proceeding conducted pursuant to Chapter 5 (commencing with Section 56500), the child involved in the hearing shall remain in his or her present educational placement, unless the public agency and the parent or guardian of the child agree otherwise. An action brought under this subdivision shall adhere to Section 300.516(c) of Title 34 of the Code of Federal Regulations.

(*l*) A request for a due process hearing arising under subdivision (a) of Section 56501 shall be filed within two years from the date the party initiating the request knew or had reason to know of the facts underlying the basis for the request. In accordance with Section 1415(f)(3)(D) of Title 20 of the United States Code, the time period specified in this subdivision does not apply to a parent if the parent was prevented from requesting the due process hearing due to either of the following:

(1) Specific misrepresentations by the local educational agency that it had solved the problem forming the basis of the due process hearing request.

(2) The withholding of information by the local educational agency from the parent that was required under this part to be provided to the parent.

(m) Pursuant to Section 300.511(c) of Title 34 of the Code of Federal Regulations, each public agency shall keep a list of the persons who serve as due process hearing officers, in accordance with Section 56504.5, and the list shall include a statement of the qualifications of each of those persons. The list of hearing officers shall be provided to the public agencies by the organization or entity under contract with the department to conduct due process hearings.

(n) A party who filed for a due process hearing prior to the effective date of this section is not bound by the two-year statute of limitations time period in subdivision (*l*) if the party filed a request within the

three-year statute of limitations provision pursuant to subdivision (*l*) as it read prior to October 9, 2006.

(o) This section shall become operative October 9, 2006.

SEC. 33. Section 56515 of the Education Code is amended to read:

56515. (a) In addition to the provisions of Chapter 6.5 (commencing with Section 49060) of Part 27, the confidentiality of personally identifiable information about individuals with exceptional needs shall be governed and protected in accordance with Sections 1412(a)(8) and 1417(c) of Title 20 of the United States Code and Part 300 (commencing with Section 300.1) of Title 34 of the Code of Federal Regulations, including Sections 300.611 to 300.626, inclusive, covering notice to parents, access rights, records of access, records on more than one child, list of types and locations of information, fees, amendment of records at parent's request, opportunity for a hearing, result of hearing, hearing procedures, consent, destruction of information, children's privacy rights, and enforcement, and Section 1413(i) of Title 20 of the United States Code and Section 300.229 of Title 34 of the Code of Federal Regulations, regarding disciplinary information.

(b) Pursuant to Section 300.32 of Title 34 of the Code of Federal Regulations, "personally identifiable," as used in this part, includes all of the following information:

(1) The name of the child, the parent of the child, or other family member.

(2) The address of the child.

(3) A personal identifier, including, but not limited to, the social security number of the child, a pupil number, a list of personal characteristics, or other information that would make it possible to identify the child with reasonable certainty.

(c) (1) In accordance with Section 300.622 of Title 34 of the Code of Federal Regulations, parental consent shall be obtained before personally identifiable information is disclosed to the parties, other than officials of participating agencies in accordance with Section 300.622(b)(1) of Title 34 of the Code of Federal Regulations, unless the information is contained in education records, and the disclosure is authorized without parental consent under Part 99 (commencing with Section 99.1) of Title 34 of the Code of Federal Regulations. Except as provided in paragraphs (2) and (3), parental consent is not required before personally identifiable information is released to officials of participating agencies for purposes of meeting a requirement of this part or Part 300 (commencing with Section 300.1) of Title 34 of the Code of Federal Regulations.

(2) Parental consent, or the consent of an eligible child who has reached the age of 18 years, shall be obtained before personally

identifiable information is released to officials of participating agencies providing or paying for transition services in accordance with Section 300.321(b)(3) of Title 34 of the Code of Federal Regulations.

(3) If a child is enrolled, or is going to enroll in a private school that is not located in the local educational agency of the residence of the parent, parental consent shall be obtained before any personally identifiable information about the child is released between officials in the local educational agency where the private school is located and officials in the local educational agency of the residence of the parent.

SEC. 34. Section 56600.6 of the Education Code is amended to read:

56600.6. (a) The Superintendent shall ensure that pupil and program performance results are monitored at the state and local levels in order to comply with Section 1412(a)(15) of Title 20 of the United States Code by evaluating pupil performance against key performance indicators. As necessary, other data may be collected to support the state's participation in national studies and evaluations described in Section 1474(a) of Title 20 of the United States Code.

(b) The Superintendent shall monitor, provide technical assistance, and enforce this part, and Part B of the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) in accordance with Section 1416 of Title 20 of the United States Code, and Subpart F (commencing with Section 300.600) of Title 34 of the Code of Federal Regulations, and annually report to the United States Department of Education on performance.

(c) Pursuant to Section 300.600(b) of Title 34 of the Code of Federal Regulations, the primary focus of the state's monitoring activities shall be on the following:

(1) Improving educational results and functional outcomes for all individuals with exceptional needs.

(2) Ensuring that public agencies meet the program requirements under this part and under Part B of the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), with a particular emphasis on those requirements that are most closely related to improving educational results for individuals with exceptional needs.

(d) As part of state monitoring and enforcement, the Superintendent shall use quantifiable indicators and qualitative indicators as are needed to adequately measure performance in the indicators established by the United States Secretary of Education, and in the following priority areas specified in Section 300.600(d) of Title 34 of the Code of Federal Regulations:

(1) Provision of a free appropriate public education in the least restrictive environment.

(2) State exercise of general supervision, including child find, effective monitoring, the use of resolution meetings, mediation, and a system of transition services as defined in Section 1437(a)(9) of Title 20 of the United States Code and in Section 300.43 of Title 34 of the Code of Federal Regulations.

(3) Disproportionate representation of racial and ethnic groups in special education and related services, to the extent the representation is the result of inappropriate identification.

(e) As part of the performance plan of the state, as required in Section 300.601 of Title 34 of the Code of Federal Regulations, the Superintendent shall collect valid and reliable information as needed to report annually to the United States Secretary of Education.

SEC. 35. Section 56841 of the Education Code is amended to read:

56841. (a) Federal funds available through Part B of the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) and appropriated through the annual Budget Act shall only be used as follows:

(1) For the excess costs of providing special education and related services to individuals with exceptional needs.

(2) To supplement state, local, and other federal funds and not to supplant those funds.

(b) Except as provided in subdivisions (c) and (d), the funds shall not be used to reduce the level of expenditures for the education of individuals with exceptional needs made by the local educational agency from local funds below the level of those expenditures for the preceding fiscal year.

(c) Notwithstanding subdivision (b), a local educational agency may reduce the level of expenditures from local funds where the reduction is attributable to the following:

(1) The voluntary departure, by retirement or otherwise, or departure for just cause, of special education personnel.

(2) A decrease in the enrollment of individuals with exceptional needs.

(3) The termination of the obligation of the local educational agency, consistent with this part, to provide a program of special education to an individual or individuals with exceptional needs that is an exceptionally costly program, as determined by the Superintendent, because any of the following is applicable:

(A) The child has left the jurisdiction of the local educational agency.

(B) The child has reached the age at which the obligation of the local educational agency to provide a free appropriate public education to the child has terminated.

(C) The child no longer needs the program of special education.

(4) The termination of costly expenditures for long-term purchases, such as the acquisition of equipment or the construction of facilities.

(d) Notwithstanding the provisions of paragraph (2) of subdivision (a) and subdivision (b), for any fiscal year in which the allocation received by a local educational agency under Section 1411(f) of Title 20 of the United States Code exceeds the amount the local educational agency received for the previous fiscal year, the local educational agency may reduce the level of expenditures otherwise required by Section 1413(a)(2)(A)(iii) of Title 20 of the United States Code by not more than 50 percent of the amount of the excess. If a local educational agency exercises the authority under this subdivision, the local educational agency shall use an amount of local funds equal to the reduction in expenditures under this subdivision to carry out activities authorized under the federal Elementary and Secondary Education Act of 1965 (20 U.S.C. Sec. 6301 et seq.).

(e) Notwithstanding subdivision (d), if the Superintendent determines that a local educational agency is unable to establish and maintain programs of free appropriate public education that meet the requirements of Section 1413(a) of Title 20 of the United States Code, or if the Superintendent has taken action against the local educational agency under Section 1416 of Title 20 of the United States Code, the Superintendent shall prohibit the local educational agency from reducing the level of expenditures under subdivision (d) for that fiscal year.

(f) The amount of funds expended by a local educational agency under Section 1413(f) of Title 20 of the United States Code for early intervening services shall count toward the maximum amount of expenditures the local educational agency may reduce under subdivision (d).

(g) Notwithstanding Section 1413(a)(2)(A) of Title 20 of the United States Code or any other provision of the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), a local educational agency may use federal special education funds for any fiscal year to carry out a schoolwide program under Section 1114 of the federal Elementary and Secondary Education Act of 1965 (20 U.S.C. Sec. 6301 et seq.), except that the amount so used in any such program shall not exceed the number of individuals with exceptional needs participating in the schoolwide program, multiplied by the amount received by the local educational agency under this article for that fiscal year, and divided by the number of individuals with exceptional needs in the jurisdiction of that local educational agency.

(h) (1) Notwithstanding subdivisions (a) to (g), inclusive, a local educational agency may also use federal special education funds for other purposes specified in Section 1413(a) of Title 20 of the United States Code.

(2) In accordance with Section 300.208(b) of Title 34 of the Code of Federal Regulations, a local educational agency may use federal funds received under this article to purchase appropriate technology for recordkeeping, data collection, and related case management activities of teachers and related services personnel providing services described in the individualized education program of individuals with exceptional needs, that is needed for the implementation of those case management activities.

SEC. 36. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act implements a federal law or regulation and results only in costs mandated by the federal government, within the meaning of Section 17556 of the Government Code.

SEC. 37. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure that pupils with disabilities receive services, to ensure that state law is in conformity with the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) and implementing regulations that became effective on October 13, 2006, and with the federal Family Educational Rights and Privacy Act (20 U.S.C. Sec. 1232g), and to ensure that California continues to receive federal funding to pay for services provided to pupils with disabilities at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 455

An act to amend Sections 14020 and 14024 of the Penal Code, relating to witnesses.

[Approved by Governor October 11, 2007. Filed with Secretary of State October 11, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 14020 of the Penal Code is amended to read:

14020. There is hereby established the Witness Relocation and Assistance Program.

SEC. 2. Section 14024 of the Penal Code is amended to read:

14024. The Attorney General shall coordinate the efforts of state and local agencies to secure witness protection, relocation, and assistance services and then reimburse those state and local agencies for the costs of the services that he or she determines to be necessary to protect a witness from bodily injury, assure the witness's safe transition into a new environment, and otherwise to assure the health, safety, and welfare of the witness. The Attorney General may reimburse the state or local agencies that provide witnesses with any of the following:

(a) Armed protection or escort by law enforcement officials or security personnel before, during, or subsequent to, legal proceedings.

(b) Physical relocation to an alternate residence.

(c) Housing expense.

(d) Appropriate documents to establish a new identity.

(e) Transportation or storage of personal possessions.

(f) Basic living expenses, including, but not limited to, food, transportation, utility costs, and health care.

(g) Support, advocacy, and other services to provide for witnesses' safe transition into a new environment.

(h) Other services as needed and approved by the Attorney General.

CHAPTER 456

An act to add and repeal Section 3485 of the Civil Code, and to amend Section 1161 of the Code of Civil Procedure, relating to unlawful detainer.

[Approved by Governor October 11, 2007. Filed with Secretary of State October 11, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 3485 is added to the Civil Code, to read:

3485. (a) To abate the nuisance caused by illegal conduct involving an unlawful weapons or ammunition purpose on real property, the city prosecutor or city attorney may file, in the name of the people, an action for unlawful detainer against any person who is in violation of the nuisance or illegal purpose provisions of subdivision 4 of Section 1161 of the Code of Civil Procedure, with respect to that unlawful weapons or ammunition purpose. In filing this action, which shall be based upon an arrest report or other report by a law enforcement agency, reporting an offense committed on the property and documented by the observations of a police officer, the city prosecutor or city attorney shall

use the procedures set forth in Chapter 4 (commencing with Section 1159) of Title 3 of Part 3 of the Code of Civil Procedure, except that in cases filed under this section, the following also shall apply:

(1) (A) Prior to filing an action pursuant to this section, the city prosecutor or city attorney shall give 30 calendar days' written notice to the owner, requiring the owner to file an action for the removal of the person who is in violation of the nuisance or illegal purpose provisions of subdivision 4 of Section 1161 of the Code of Civil Procedure with respect to an unlawful weapons or ammunition purpose.

(B) This notice shall include sufficient documentation establishing a violation of the nuisance or illegal purpose provisions of subdivision 4 of Section 1161 of the Code of Civil Procedure and shall be served upon the owner and the tenant in accordance with subdivision (e).

(C) The notice to the tenant shall also include on the bottom of its front page, in at least 14-point bold type, the following:

"Notice to Tenant: This notice is not a notice of eviction. However, you should know that an eviction action may soon be filed in court against you for an unlawful weapons or ammunition activity, as described above. You should call (insert name and telephone number of the city attorney or prosecutor pursuing the action) or a legal assistance provider to stop the eviction action if any of the following is applicable:

(i) You are not the person named in this notice.

(ii) The person named in the notice does not live with you.

(iii) The person named in the notice has permanently moved.

(iv) You do not know the person named in the notice.

(v) You have any other legal defense or legal reason to stop the eviction action. A list of legal assistance providers is attached to this notice. Some provide free legal help if you are eligible."

(D) The owner shall, within 30 calendar days of the mailing of the written notice, either provide the city prosecutor or city attorney with all relevant information pertaining to the unlawful detainer case, or provide a written explanation setting forth any safety-related reasons for noncompliance, and an assignment to the city prosecutor or city attorney of the right to bring an unlawful detainer action against the tenant.

(E) The assignment shall be on a form provided by the city prosecutor or city attorney and may contain a provision for costs of investigation, discovery, and reasonable attorney's fees, in an amount not to exceed six hundred dollars ($600).

(F) If the city prosecutor or city attorney accepts the assignment of the right of the owner to bring the unlawful detainer action, the owner

shall retain all other rights and duties, including the handling of the tenant's personal property, following issuance of the writ of possession and its delivery to and execution by the appropriate agency.

(2) Upon the failure of the owner to file an action pursuant to this section, or to respond to the city prosecutor or city attorney as provided in paragraph (1), or having filed an action, if the owner fails to prosecute it diligently and in good faith, the city prosecutor or city attorney may file and prosecute the action, and join the owner as a defendant in the action. This action shall have precedence over any similar proceeding thereafter brought by the owner, or to one previously brought by the owner and not prosecuted diligently and in good faith. Service of the summons and complaint upon the defendant owner shall be in accordance with Sections 415.10, 415.20, 415.30, 415.40, and 415.50 of the Code of Civil Procedure.

(3) If a jury or court finds the defendant tenant guilty of unlawful detainer in a case filed pursuant to paragraph (2), the city prosecutor or city attorney may be awarded costs, including the costs of investigation and discovery and reasonable attorney's fees. These costs shall be assessed against the defendant owner, to whom notice was directed pursuant to paragraph (1), and once an abstract of judgment is recorded, it shall constitute a lien on the subject real property.

(4) This article shall not prevent a local governing body from adopting and enforcing laws, consistent with this article, relating to weapons or ammunition abatement. If local laws duplicate or supplement this article, this article shall be construed as providing alternative remedies and not preempting the field.

(5) This article shall not prevent a tenant from receiving relief against a forfeiture of a lease pursuant to Section 1179 of the Code of Civil Procedure.

(b) In any proceeding brought under this section, the court may, upon a showing of good cause, issue a partial eviction ordering the removal of any person, including, but not limited to, members of the tenant's household if the court finds that the person has engaged in the activities described in subdivision (a). Persons removed pursuant to this section may be permanently barred from returning to or reentering any portion of the entire premises. The court may further order as an express condition of the tenancy that the remaining tenants shall not give permission to or invite any person who has been removed pursuant to this subdivision to return to or reenter any portion of the entire premises.

(c) For purposes of this section, "unlawful weapons or ammunition purpose" means the illegal use, manufacture, causing to be manufactured, importation, possession, possession for sale, sale, furnishing, or giving away of any of the following:

(1) A firearm, as defined in subdivision (b) of Section 12001 of the Penal Code.

(2) Any ammunition, as defined in paragraph (2) of subdivision (b) of Section 12316 or subdivisions (a) and (b) of Section 12323 of the Penal Code.

(3) Any assault weapon, as defined in Section 12276, 12276.1, or 12276.5 of the Penal Code.

(4) Any .50 BMG rifle, as defined in Section 12278 of the Penal Code.

(5) Any tear gas weapon, as defined in Section 12402 of the Penal Code.

(d) Notwithstanding subdivision (b) of Section 68097.2 of the Government Code, a public entity may waive all or part of the costs incurred in furnishing the testimony of a peace officer in an unlawful detainer action brought pursuant to this section.

(e) The notice and documentation described in paragraph (1) of subdivision (a) shall be given in writing and may be given either by personal delivery or by deposit in the United States mail in a sealed envelope, postage prepaid, addressed to the owner at the address known to the public entity giving the notice, or as shown on the last equalized assessment roll, if not known. Separate notice of not less than 30 calendar days and documentation shall be provided to the tenant in accordance with this subdivision. Service by mail shall be deemed to be completed at the time of deposit in the United States mail. Proof of giving the notice may be made by a declaration signed under penalty of perjury by any employee of the public entity which shows service in conformity with this section.

(f) This section shall apply only to the following courts:

(1) In the County of Los Angeles, any court having jurisdiction over unlawful detainer cases involving real property situated in the City of Los Angeles or the City of Long Beach.

(2) In the County of San Diego, any court having jurisdiction over unlawful detainer cases involving real property situated in the City of San Diego.

(3) In the County of Alameda, any court with jurisdiction over unlawful detainer cases involving real property situated in the City of Oakland.

(4) In the County of Sacramento, any court with jurisdiction over unlawful detainer cases involving real property situated in the City of Sacramento.

(g) (1) The city attorney and city prosecutor of each participating jurisdiction shall provide to the Judicial Council the following information:

(A) The number of notices provided pursuant to paragraph (1) of subdivision (a).

(B) The number of cases filed by an owner, upon notice.

(C) The number of assignments executed by owners to the city attorney or city prosecutor.

(D) The number of three-day, 30-day, or 60-day notices issued by the city attorney or city prosecutor.

(E) The number of cases filed by the city attorney or city prosecutor.

(F) The number of times that an owner is joined as a defendant pursuant to this section.

(G) As to each case filed by an owner, the city attorney, or the city prosecutor, the following information:

(i) The number of judgments ordering an eviction or partial eviction, and specifying whether each was a default judgment, stipulated judgment, or judgment following trial.

(ii) The number of cases, listed by separate categories, in which the case was withdrawn or in which the tenant prevailed.

(iii) The number of other dispositions, and specifying the disposition.

(iv) The number of defendants represented by counsel.

(v) Whether the case was a trial by the court or a trial by a jury.

(vi) Whether an appeal was taken, and, if so, the result of the appeal.

(vii) The number of cases in which partial eviction was requested, and the number of cases in which the court ordered a partial eviction.

(H) As to each case in which a notice was issued, but no case was filed, the following information:

(i) The number of instances in which a tenant voluntarily vacated.

(ii) The number of instances in which a tenant vacated a unit prior to the providing of the notice.

(iii) The number of cases in which the notice provided pursuant to subdivision (a) was erroneously sent to the tenant. This shall include a list of the reasons, if known, for the erroneously sent notice, such as reliance on information on the suspected violator's name or address that was incorrect, a clerical error, or any other reason.

(iv) The number of other resolutions, and specifying the type of resolution.

(2) (A) Information compiled pursuant to this section shall be reported annually to the Judicial Council on or before January 30 of each year.

(B) The Judicial Council shall thereafter submit a brief report to the Senate and Assembly Committees on Judiciary on or before April 15, 2009, summarizing the information collected pursuant to this section and evaluating the merits of the pilot programs established by this section. The report for this section may be combined with the Judicial Council

report submitted for the pilot program established by Section 11571.1 of the Health and Safety Code.

(h) This section shall remain in effect only until January 1, 2010, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2010, deletes or extends that date.

SEC. 2. Section 1161 of the Code of Civil Procedure is amended to read:

1161. A tenant of real property, for a term less than life, or the executor or administrator of his or her estate heretofore qualified and now acting or hereafter to be qualified and act, is guilty of unlawful detainer:

1. When he or she continues in possession, in person or by subtenant, of the property, or any part thereof, after the expiration of the term for which it is let to him or her; provided the expiration is of a nondefault nature however brought about without the permission of his or her landlord, or the successor in estate of his or her landlord, if applicable; including the case where the person to be removed became the occupant of the premises as a servant, employee, agent, or licensee and the relation of master and servant, or employer and employee, or principal and agent, or licensor and licensee, has been lawfully terminated or the time fixed for occupancy by the agreement between the parties has expired; but nothing in this subdivision shall be construed as preventing the removal of the occupant in any other lawful manner; but in case of a tenancy at will, it must first be terminated by notice, as prescribed in the Civil Code.

2. When he or she continues in possession, in person or by subtenant, without the permission of his or her landlord, or the successor in estate of his or her landlord, if applicable, after default in the payment of rent, pursuant to the lease or agreement under which the property is held, and three days' notice, in writing, requiring its payment, stating the amount which is due, the name, telephone number, and address of the person to whom the rent payment shall be made, and, if payment may be made personally, the usual days and hours that person will be available to receive the payment (provided that, if the address does not allow for personal delivery, then it shall be conclusively presumed that upon the mailing of any rent or notice to the owner by the tenant to the name and address provided, the notice or rent is deemed received by the owner on the date posted, if the tenant can show proof of mailing to the name and address provided by the owner), or the number of an account in a financial institution into which the rental payment may be made, and the name and street address of the institution (provided that the institution is located within five miles of the rental property), or if an electronic funds transfer procedure has been previously established, that payment may be made pursuant to that procedure, or possession of the property,

shall have been served upon him or her and if there is a subtenant in actual occupation of the premises, also upon the subtenant.

The notice may be served at any time within one year after the rent becomes due. In all cases of tenancy upon agricultural lands, where the tenant has held over and retained possession for more than 60 days after the expiration of the term without any demand of possession or notice to quit by the landlord or the successor in estate of his or her landlord, if applicable, he or she shall be deemed to be holding by permission of the landlord or successor in estate of his or her landlord, if applicable, and shall be entitled to hold under the terms of the lease for another full year, and shall not be guilty of an unlawful detainer during that year, and the holding over for that period shall be taken and construed as a consent on the part of a tenant to hold for another year.

3. When he or she continues in possession, in person or by subtenant, after a neglect or failure to perform other conditions or covenants of the lease or agreement under which the property is held, including any covenant not to assign or sublet, than the one for the payment of rent, and three days' notice, in writing, requiring the performance of such conditions or covenants, or the possession of the property, shall have been served upon him or her, and if there is a subtenant in actual occupation of the premises, also, upon the subtenant. Within three days after the service of the notice, the tenant, or any subtenant in actual occupation of the premises, or any mortgagee of the term, or other person interested in its continuance, may perform the conditions or covenants of the lease or pay the stipulated rent, as the case may be, and thereby save the lease from forfeiture; provided, if the conditions and covenants of the lease, violated by the lessee, cannot afterward be performed, then no notice, as last prescribed herein, need be given to the lessee or his or her subtenant, demanding the performance of the violated conditions or covenants of the lease.

A tenant may take proceedings, similar to those prescribed in this chapter, to obtain possession of the premises let to a subtenant or held by a servant, employee, agent, or licensee, in case of his or her unlawful detention of the premises underlet to him or her or held by him or her.

4. Any tenant, subtenant, or executor or administrator of his or her estate heretofore qualified and now acting, or hereafter to be qualified and act, assigning or subletting or committing waste upon the demised premises, contrary to the conditions or covenants of his or her lease, or maintaining, committing, or permitting the maintenance or commission of a nuisance upon the demised premises or using the premises for an unlawful purpose, thereby terminates the lease, and the landlord, or his or her successor in estate, shall upon service of three days' notice to quit upon the person or persons in possession, be entitled to restitution of

possession of the demised premises under this chapter. For purposes of this subdivision, a person who commits an offense included in paragraph (1) of subdivision (c) of Section 11571.1 of the Health and Safety Code, or subdivision (c) of Section 3485 of the Civil Code, or uses the premises to further the purpose of that offense shall be deemed to have committed a nuisance upon the premises.

5. When he or she gives written notice as provided in Section 1946 of the Civil Code of his or her intention to terminate the hiring of the real property, or makes a written offer to surrender which is accepted in writing by the landlord, but fails to deliver possession at the time specified in that written notice, without the permission of his or her landlord, or the successor in estate of the landlord, if applicable.

As used in this section, tenant includes any person who hires real property except those persons whose occupancy is described in subdivision (b) of Section 1940 of the Civil Code.

SEC. 3. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

CHAPTER 457

An act to add Section 727.7 to the Welfare and Institutions Code, relating to juveniles.

[Approved by Governor October 11, 2007. Filed with Secretary of State October 11, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 727.7 is added to the Welfare and Institutions Code, to read:

727.7. (a) If a minor is found to be a person described in Section 602 by reason of the commission of a gang-related offense, and the court finds that the minor is a first-time offender and orders that a parent or guardian retain custody of that minor, the court may order the parent or guardian to attend antigang violence parenting classes.

(b) The Department of Justice shall establish curriculum for the antigang violence parenting classes required pursuant to this section, including, but not limited to, all of the following criteria:

(1) A meeting in which the families of innocent victims of gang violence share their experience.

(2) A meeting in which the surviving parents of a deceased gang member share their experience.

(3) How to identify gang and drug activity in children.

(4) How to communicate effectively with adolescents.

(5) An overview of pertinent support agencies and organizations for intervention, education, job training, and positive recreational activities, including telephone numbers, locations, and contact names of those agencies and organizations.

(6) The potential fines and periods of incarceration for the commission of additional gang-related offenses.

(7) The potential penalties that may be imposed upon parents for aiding and abetting crimes committed by their children.

(c) For purposes of this section, "gang-related" means that the minor was an active participant in a criminal street gang, as specified in subdivision (a) of Section 186.22 of the Penal Code, or committed an offense for the benefit of, or at the direction of, a criminal street gang, as specified in subdivision (b) or (d) of Section 186.22 of the Penal Code.

(d) The father, mother, spouse, or other person liable for the support of the minor, the estate of that person, and the estate of the minor shall be liable for the cost of classes ordered pursuant to this section, unless the court finds that the person or estate does not have the financial ability to pay. In evaluating financial ability to pay, the court shall take into consideration the combined household income, the necessary obligations of the household, the number of persons dependent upon this income, and whether reduced monthly payments would obviate the need to waive liability for the full costs.

CHAPTER 458

An act to amend Sections 1710 and 1714 of, and to add Section 1712.1 to, the Welfare and Institutions Code, relating to juveniles.

[Approved by Governor October 11, 2007. Filed with Secretary of State October 11, 2007.]

The people of the State of California do enact as follows:

SECTION 1. This act shall be known and may be cited as the Family Connection and Young Offender Rehabilitation Act of 2007.

SEC. 2. Section 1710 of the Welfare and Institutions Code is amended to read:

1710. (a) Commencing July 1, 2005, any reference to the Department of the Youth Authority in this or any other code refers to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities.

(b) The Legislature finds and declares the following:

(1) The purpose of the Division of Juvenile Facilities within the Department of Corrections and Rehabilitation is to protect society from the consequences of criminal activity by providing for the secure custody of wards, and to effectively and efficiently operate and manage facilities housing youthful offenders under the jurisdiction of the department, consistent with the purposes set forth in Section 1700.

(2) The purpose of the Division of Juvenile Programs within the Department of Corrections and Rehabilitation is to provide comprehensive education, training, treatment, and rehabilitative services to youthful offenders under the jurisdiction of the department, that are designed to promote community restoration, family ties, and accountability to victims, and to produce youth who become law-abiding and productive members of society, consistent with the purposes set forth in Section 202.

(3) The purpose of the Division of Juvenile Parole Operations within the Department of Corrections and Rehabilitation is to monitor and supervise the reentry into society of youthful offenders under the jurisdiction of the department, and to promote the successful reintegration of youthful offenders into society, in order to reduce the rate of recidivism, thereby increasing public safety.

SEC. 3. Section 1712.1 is added to the Welfare and Institutions Code, to read:

1712.1. (a) A ward confined in a facility of the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, shall be encouraged to communicate with family members, clergy, and others, and to participate in programs that will facilitate his or her education, rehabilitation, and accountability to victims, and that may help the ward become a law-abiding and productive member of society. If the division or a facility requires a ward to provide a list of allowed visitors, calls, or correspondents, that list shall be transferable from facility to facility, so that the transfer of the ward does not unduly interrupt family and community communication.

(b) A ward shall be allowed a minimum of four telephone calls to his or her family per month. A restriction or reduction of the minimum amount of telephone calls allowed to a ward shall not be imposed as a disciplinary measure. If calls conflict with institutional operations, supervision, or security, telephone usage may be restricted to the extent

reasonably necessary for the continued operation and security of the facility.

(c) (1) If a ward's visitation rights are suspended, division or facility staff shall be prepared to inform one or more persons on the list of those persons allowed to visit the ward, if any of those persons should call to ask.

(2) The division or facility shall maintain a toll-free telephone number that families and others may call to confirm visiting times, and to provide timely updates on interruptions and rescheduling of visiting days, times, and conditions.

SEC. 4. Section 1714 of the Welfare and Institutions Code is amended to read:

1714. The Secretary of the Department of Corrections and Rehabilitation may transfer persons confined in one institution or facility of the Division of Juvenile Facilities to another. Proximity to family shall be one consideration in placement.

CHAPTER 459

An act to add Chapter 3.6 (commencing with Section 13827) to Title 6 of Part 4 of the Penal Code, relating to crime prevention.

[Approved by Governor October 11, 2007. Filed with Secretary of State October 11, 2007.]

The people of the State of California do enact as follows:

SECTION 1. It is the intent of the Legislature to do all of the following:

(a) Address the conditions in neighborhoods and the unmet needs of children that allow gangs to take root, thrive, and expand.

(b) Stop focusing on isolated incidents and instead confront the size and scope of the problems surrounding violent behavior and gang activity, and to do so with a strong, committed, and sustained political mandate to eradicate the root causes and conditions that trigger street gang activity and support entrenched neighborhood violence.

(c) With this act, commit to sustained and balanced prevention, intervention, and suppression strategies.

(d) Offer programs and expand services to adult gang members and parolees that provide a way out of gangs and afford former gang members a chance for a different life.

SEC. 2. Chapter 3.6 (commencing with Section 13827) is added to Title 6 of Part 4 of the Penal Code, to read:

CHAPTER 3.6. OFFICE OF GANG AND YOUTH VIOLENCE POLICY

13827. (a) There is within the Governor's Office of Emergency Services, the Office of Gang and Youth Violence Policy.

(b) (1) The Office of Gang and Youth Violence Policy shall be responsible for identifying and evaluating state, local, and federal gang and youth violence suppression, intervention, and prevention programs and strategies, along with funding for those efforts. The director shall be responsible for monitoring, assessing, and coordinating the state's programs, strategies, and funding that address gang and youth violence in a manner that maximizes the effectiveness and coordination of those programs, strategies, and resources. The director shall communicate with local agencies and programs in an effort to promote the best practices for addressing gang and youth violence through suppression, intervention, and prevention.

(2) The office shall develop a comprehensive set of recommendations to define its mission, role, and responsibilities as a statewide entity dedicated to reducing violence and the proliferation of gangs and gang violence in California communities.

(3) In developing this set of recommendations, the office shall collaborate with a wide range of state and local stakeholders, including, but not limited to, community-based organizations serving at-risk populations and neighborhoods, law enforcement, educators, the courts, policy experts and scholars with expertise in the area of criminal street gangs, and local policymakers.

(4) The office, in collaboration with the stakeholders specified in paragraph (3), shall include in its deliberations the most effective role for the office with respect to the following:

(A) The collection and analysis of data on gang membership statewide and the effectiveness of various gang prevention efforts.

(B) The development of reliable and accurate sources of data to measure the scale and characteristics of California's gang problems.

(C) The development of a clearinghouse for research on gangs, at-risk youth, and prevention and intervention programs in order to identify best practices and evidence-based programming, as well as unsuccessful practices, and in order to promote effective strategies for reducing gang involvement and gang violence.

(D) Assisting state and local governmental and nongovernmental entities in developing violence and gang prevention strategies, including built-in evaluation components.

(E) The development of sustained coordination mechanisms among state, local, and regional entities.

(F) The identification of available or needed federal, state, regional, local, and private funding resources.

(G) Providing or otherwise promoting public education on effective programs, models, and strategies for the control of violence and serving as a clearinghouse for information on gang violence prevention issues, programs, resources, and research.

(H) Providing or otherwise promoting training and technical assistance to help build the capacity of organizations, communities, and local government to develop, implement, and evaluate gang violence prevention programs.

(I) Providing information and guidance to state and local governmental and nongovernmental entities on accessing state and federal resources to prevent gang violence.

(J) Facilitating greater integration between existing entities with respect to gang prevention efforts.

13827.1. There is within the Office of Emergency Services, the following offices:

(a) Director of the Office of Gang and Youth Violence Policy. The director shall report directly to the office of the Governor.

(b) Chief Deputy Director of Gang and Youth Violence Policy.

13827.2. The Office of Gang and Youth Violence Policy shall establish an Internet Web site, in coordination with the Office of Emergency Services, that provides an Internet hyperlink to the various grants administered by the Office of Emergency Services and technical assistance on the process for applying for grants.

SEC. 3. (a) On or before March 1, 2009, the Office of Gang and Youth Violence Policy shall submit to the Legislature a report of its recommendations developed pursuant to Section 13827 of the Penal Code.

(b) The report shall include, but not be limited to, the following:

(1) A thorough description of the process employed by the office to develop the recommendations, including, but not limited to, meetings and hearings, use of ad hoc committees or working groups, and any other methods used for receiving public and expert input and facilitating deliberations.

(2) The stakeholders involved in the development of the recommendations.

(3) The set of recommendations developed by the office to define its mission, role, and responsibilities as a statewide entity dedicated to reducing violence and the proliferation of gangs and gang violence in California communities.

(4) Any additional information, data, and recommendations that may further inform the Legislature on the successful operation of the office.

CHAPTER 460

An act to amend Section 123360 of, and to add Sections 1257.9 and 123361 to, the Health and Safety Code, and to add Section 14134.55 to the Welfare and Institutions Code, relating to breast-feeding.

[Approved by Governor October 11, 2007. Filed with Secretary of State October 11, 2007.]

The people of the State of California do enact as follows:

SECTION 1. The Legislature hereby finds and declares all of the following:

(a) The United States Surgeon General and the American Academy of Pediatrics (AAP) recommend exclusive breast-feeding for most babies, unless specifically contraindicated, for the first six months and continued breast-feeding with the addition of appropriate foods up to at least one year of age.

(b) Medical research provides strong evidence that breast-feeding decreases the incidence and severity of diarrhea, respiratory tract infections, otitis media, a wide range of infectious diseases, necrotizing enterocolitis, and urinary tract infections.

(c) The California Obesity Prevention Plan highlights breast-feeding as a key strategy. The United States Government's Healthy People 2010 goals seek to increase breast-feeding initiation (any breast milk) to at least 75 percent of babies, at least 60 percent of babies exclusively breast-feeding at three months, at least 50 percent of babies having some breast milk at six months, and at least 25 percent of babies exclusively breast-feeding at six months.

(d) The California Special Supplemental Food Program for Women, Infants, and Children (WIC) program provided for pursuant to Article 2 (commencing with Section 123275) of Chapter 1 of Part 2 of Division 106 of the Health and Safety Code, provides nutritious foods and breast-feeding support to 1.4 million pregnant and postpartum women and their children up to five years of age. While 67 percent of WIC mothers initiate breast-feeding at least partially in the hospital, only 15 percent are exclusively breast-feeding by the time their babies are two months old.

(e) Skilled, culturally competent support is critical to increasing breast-feeding among high-risk low-income women. Key factors that appear to increase the duration of breast-feeding among WIC mothers include all of the following:

(1) Attendance at a breast-feeding class.

(2) Knowing others who have breast-fed.

(3) Support of breast-feeding by significant others.

(f) In the past five years, WIC pilot projects, which are typically funded by foundations, First Five program grants, and United States Department of Agriculture special grants, have demonstrated that using breast-feeding peer counselors and lactation consultants has a direct, positive impact on breast-feeding rates in this population.

SEC. 2. Section 1257.9 is added to the Health and Safety Code, to read:

1257.9. (a) (1) The department shall recommend training for general acute care hospitals, as defined in subdivision (a) of Section 1250, and special hospitals, as defined in subdivision (f) of Section 1250, that is intended to improve breast-feeding rates among mothers and infants. This recommended training should be designed for general acute care hospitals that provide maternity care and have exclusive patient breast-feeding rates in the lowest 25 percent, according to the data published yearly by the State Department of Public Health, when ranked from highest to lowest rates. The training offered shall include a minimum of eight hours of training provided to appropriate administrative and supervisory staff on hospital policies and recommendations that promote exclusive breast-feeding. Hospitals that meet the minimum criteria for exclusive breast-feeding rates prescribed in the most current Healthy People Guidelines of the United States Department of Health and Human Services shall be excluded from the training requirements recommended by this paragraph.

(2) The department shall notify the hospital director or other person in charge of a hospital to which paragraph (1) applies, that the eight-hour model training course developed pursuant to subdivision (b) of Section 123360, is available, upon request, to the hospital.

(b) The recommendations provided for in this section are advisory only. Nothing in this section shall require a hospital to comply with the training recommended by this section. Section 1290 shall not apply to this section, nor shall meeting the recommendations of this section be a condition of licensure.

SEC. 3. Section 123360 of the Health and Safety Code is amended to read:

123360. (a) The State Department of Public Health shall include in its public service campaign the promotion of mothers breast-feeding their infants.

(b) The department shall develop a model eight-hour training course of hospital policies and recommendations that promote exclusive breast-feeding, incorporating available materials already developed by the department, and shall specify hospital staff for whom this model training is appropriate. The department shall also provide the model training materials to hospitals, upon request.

SEC. 4. Section 123361 is added to the Health and Safety Code, to read:

123361. To the extent that non-United States Department of Agriculture (USDA) federal funds and private grants or donations are made available for this purpose, the State Department of Public Health shall, no later than July 1, 2008, begin expansion of the breast-feeding peer counseling program at local agency California Special Supplemental Food Program for Women, Infants, and Children (WIC) sites. Plans for the expansion of the program shall take into account local WIC agency program models that have demonstrated the greatest improvement in breast-feeding rates, including exclusive breast-feeding rates. Program expansion shall be contingent upon the availability of non-USDA federal funds and private grants or donations being made available for this purpose. Nothing in this section shall impact USDA federal funding for the WIC Supplemental Food Program or the breast-feeding peer counseling program at local agency WIC sites.

SEC. 5. Section 14134.55 is added to the Welfare and Institutions Code, to read:

14134.55. The department shall streamline and simplify existing Medi-Cal program procedures in order to improve access to lactation supports and breast pumps among Medi-Cal recipients.

CHAPTER 461

An act to add Section 71095 to the Education Code, relating to emergency planning.

[Approved by Governor October 11, 2007. Filed with Secretary of State October 11, 2007.]

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) Community college employees have the right to work in a safe and secure environment.

(b) Community college employees are the first to respond to any emergency on a community college campus.

(c) Community college districts are not included in any provisions in the Education Code covering emergency preparedness.

(d) The failure to prepare for an emergency event may result in injury or death that could financially burden the district due to wrongful injury and death claims.

(e) The Standardized Emergency Management System and emergency preparedness plans may be in place, but are not being effectively implemented by community colleges.

(f) Each school district and county office of education is required by law to have a school safety plan and follow emergency procedures for its schools operating kindergarten or any of grades 1 to 12, inclusive.

SEC. 2. Section 71095 is added to the Education Code, to read:

71095. (a) The chancellor's office, in consultation with the Governor's Office of Emergency Services and the Office of Homeland Security, shall, by January 1, 2009, develop emergency preparedness standards and guidelines to assist community college districts and campuses in the event of a natural disaster, hazardous condition, or terrorist activity on or around a community college campus.

(b) The standards and guidelines shall be developed in accordance with the Standardized Emergency Management System and the National Incident Management System, and shall be reviewed by the Governor's Office of Emergency Services in a manner that is consistent with existing policy. In developing the standards and guidelines, the chancellor's office shall consider, but is not limited to, all of the following components:

(1) Information on establishing a campus emergency management team.

(2) Provisions regarding overview training for every employee within one year of commencement of employment.

(3) Information on specialized training for employees who may be designated as part of an emergency management team.

(4) Information on preparedness, prevention, response, recovery, and mitigation policies and procedures.

(5) Information on coordinating with the appropriate local, state, federal government authorities, and nongovernmental entities on comprehensive emergency management and preparedness activities.

CHAPTER 462

An act to amend Section 14529.17 of the Government Code, relating to transportation.

[Approved by Governor October 11, 2007. Filed with Secretary of State October 11, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 14529.17 of the Government Code is amended to read:

14529.17. (a) A regional or local entity that is the sponsor of, or is eligible to receive funding for, a project contained in the state transportation improvement program may expend its own funds for any component of a transportation project within its jurisdiction that is included in an adopted state transportation improvement program and for which the commission has not made an allocation. It is the intent of the Legislature that local funds expended to advance eligible projects programmed in the state transportation improvement program shall be reimbursed if the requirements of this section are satisfied.

(b) No later than the time of the first expenditure, the regional or local entity shall request an allocation for the project, which shall include a notice to the commission of its intent to expend its own funds in accordance with this section.

(c) The amount expended under subdivision (a) shall be reimbursed by the state, subject to annual appropriation by the Legislature, if all of the following conditions are met:

(1) The commission makes an allocation for, and the department executes an agreement to transfer funds for, the project.

(2) Expenditures made by the regional or local entity are eligible for reimbursement in accordance with state and federal laws and procedures. In the event expenditures made by the regional or local entity are determined to be ineligible, the state has no obligation to reimburse those expenditures.

(3) The regional or local entity complies with all legal requirements for the project, including, but not limited to, authorization by the federal government, if required, Section 14520.3, and the requirements of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(d) Upon the execution of an agreement with the department to transfer reimbursement funds for a project described in subdivision (a), the

commission may delay reimbursement pursuant to this section only if programming or cash-management issues prevent immediate repayment.

(e) This section shall be limited to projects advanced for expenditure by an eligible regional or local entity programmed in the current fiscal year of the state transportation improvement program.

(f) Nothing in this section shall establish a priority for allocations made by the commission.

(g) Nothing in this section shall allow for the establishment of a timeframe limiting reimbursement to a regional or local entity so long as the regional or local entity has requested an allocation under the timeline established in subdivision (b) and the project is included in the adopted state transportation improvement program when the allocation reimbursement is approved by the commission.

(h) Unless otherwise agreed in advance by the commission and the department, the funds appropriated for the purposes of reimbursement under this section shall be federal funds and state matching funds.

CHAPTER 463

An act to amend Section 56836.173 of the Education Code, and to amend Sections 97.2 and 97.3 of the Revenue and Taxation Code, relating to local government finance.

[Approved by Governor October 11, 2007. Filed with Secretary of State October 11, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 56836.173 of the Education Code is amended to read:

56836.173. (a) For the fiscal years 2004–05 to 2006–07, inclusive, the department shall apportion to each special education local plan area the amount determined as follows:

(1) For the 2004–05 and 2005–06 fiscal years, the amount apportioned shall be as follows:

(A) If the out-of-home care funding amount calculated for a special education local plan area is less than or equal to the amount a special education local plan area received pursuant to former Sections 56836.16 and 56836.17 for the 2002–03 fiscal year, the special education local plan area shall receive the same amount it received for the 2002–03 fiscal year. For purposes of this section, the amount of funding received by a special education local plan area for the 2002–03 fiscal year shall be

based on the annual recertification of the 2002–03 fiscal year, as certified by the department in July of 2004.

(B) For special education local plan areas other than those funded through subparagraph (A), special education local plan areas shall receive the amount received for the 2002–03 fiscal year plus the amount calculated in subparagraph (C).

(C) For special education local plan areas other than those funded through subparagraph (A), each special education local plan area shall also receive the difference between the out-of-home care funding amount for the special education local plan area and the amount received for the 2002–03 fiscal year for that special education local plan area divided by the sum of the difference between the out-of-home care funding amount and the amount received in the 2002–03 fiscal year for all special education local plan areas times the amount of funds provided for Section 56836.165 in the annual Budget Act that has not been allocated in subparagraph (A) or (B).

(2) For the 2006–07 fiscal year, the amount apportioned shall be as follows:

(A) If the out-of-home care funding amount calculated for a special education local plan area for the 2006–07 fiscal year is less than or equal to the amount a special education local plan area received for the 2005–06 fiscal year, the special education local plan area shall receive the same amount it received for the 2005–06 fiscal year less 20 percent of the difference between the amount received for the 2005–06 fiscal year and the out-of-home care funding amount computed for the 2006–07 fiscal year.

(B) For special education local plan areas other than those funded through subparagraph (A), special education local plan areas shall receive the amount received for the 2005–06 fiscal year.

(C) For special education local plan areas other than those funded through subparagraph (A), each special education local plan area shall also receive the difference between the out-of-home care funding amount for that special education local plan area and the amount received for the 2005–06 fiscal year for that special education local plan area divided by the sum of the difference between the out-of-home care funding amount and the amount received in the 2005–06 fiscal year for all special education local plan areas times the amount of funds provided for Section 56836.165 in the annual Budget Act that has not been allocated in subparagraph (A) or (B).

(b) (1) Commencing with the 2007–08 fiscal year, both of the following shall apply:

(A) To the extent that funds are available pursuant to subclause (II) of clause (i) of subparagraph (B) of paragraph (4) of subdivision (d) of

Section 97.2 of the Revenue and Taxation Code or subclause (II) of clause (i) of subparagraph (B) of paragraph (4) of subdivision (d) of Section 97.3 of the Revenue and Taxation Code, or both, not more than 50 percent of the amount determined in this subdivision for the applicable fiscal year shall be apportioned by the auditor of the county containing the applicable county Educational Revenue Augmentation Fund to the special education local plan area.

(B) The remaining 50 percent of the amount determined in this subdivision for the applicable fiscal year, or more if the applicable county Educational Revenue Augmentation Fund does not have sufficient funds to cover the entire percentage pursuant to subparagraph (A), shall be apportioned by the department to the special education local plan area.

(2) For the 2007–08 fiscal year, the total amount apportioned to a special education local plan area pursuant to the formula established in paragraph (1) shall be as follows:

(A) If the out-of-home care funding amount calculated for a special education local plan area for the 2007–08 fiscal year is less than or equal to the amount a special education local plan area received for the 2006–07 fiscal year, the special education local plan area shall receive the same amount it received for the 2006–07 fiscal year less 25 percent of the difference between the amount received for the 2006–07 fiscal year and the out-of-home care funding amount computed for the 2007–08 fiscal year.

(B) For special education local plan areas other than those funded through subparagraph (A), special education local plan areas shall receive the amount received for the 2006–07 fiscal year.

(C) For special education local plan areas other than those funded through subparagraph (A), each special education local plan area shall also receive the difference between the out-of-home care funding amount for that special education local plan area and the amount received for the 2006–07 fiscal year for that special education local plan area divided by the sum of the difference between the out-of-home care funding amount and the amount received in the 2006–07 fiscal year for all special education local plan areas times the amount of funds provided for Section 56836.165 in the annual Budget Act that has not been allocated in subparagraph (A) or (B).

(3) For the 2008–09 fiscal year, the total amount apportioned to a special education local plan area pursuant to the formula established in paragraph (1) shall be as follows:

(A) If the out-of-home care funding amount calculated for a special education local plan area for the 2008–09 fiscal year is less than or equal to the amount a special education local plan area received for the 2007–08 fiscal year, the special education local plan area shall receive the same

amount it received for the 2007–08 fiscal year less 33 percent of the difference between the amount received for the 2007–08 fiscal year and the out-of-home care funding amount computed for the 2008–09 fiscal year.

(B) For special education local plan areas other than those funded through subparagraph (A), special education local plan areas shall receive the amount received for the 2007–08 fiscal year.

(C) For special education local plan areas other than those funded through subparagraph (A), each special education local plan area shall also receive the difference between the out-of-home care funding amount for that special education local plan area and the amount received for the 2007–08 fiscal year for that special education local plan area divided by the sum of the difference between the out-of-home care funding amount and the amount received in the 2007–08 fiscal year for all special education local plan areas times the amount of funds provided for Section 56836.165 in the annual Budget Act that has not been allocated in subparagraph (A) or (B).

(4) For the 2009–10 fiscal year, the total amount apportioned to a special education local plan area pursuant to the formula established in paragraph (1) shall be as follows:

(A) If the out-of-home care funding amount calculated for a special education local plan area for the 2009–10 fiscal year is less than or equal to the amount a special education local plan area received for the 2008–09 fiscal year, the special education local plan area shall receive the same amount it received for the 2008–09 fiscal year less 50 percent of the difference between the amount received for the 2008–09 fiscal year and the out-of-home care funding amount computed for the 2009–10 fiscal year.

(B) For special education local plan areas other than those funded through subparagraph (A), special education local plan areas shall receive the amount received for the 2008–09 fiscal year.

(C) For special education local plan areas other than those funded through subparagraph (A), each special education local plan area shall also receive the difference between the out-of-home care funding amount for that special education local plan area and the amount received for the 2008–09 fiscal year for that special education local plan area divided by the sum of the difference between the out-of-home care funding amount and the amount received in the 2008–09 fiscal year for all special education local plan areas times the amount of funds provided for Section 56836.165 in the annual Budget Act that has not been allocated in subparagraph (A) or (B).

(5) Beginning in the 2010–11 fiscal year, the total amount apportioned to a special education local plan area pursuant to the formula established

in paragraph (1) shall be equal to the amount calculated pursuant to Section 56836.165. If the sum of the amounts calculated pursuant to Section 56836.165 for all special education local plan areas exceeds the Budget Act appropriation for this purpose, the department shall apply proportionate reductions to all special education local plan areas.

(c) A county Educational Revenue Augmentation Fund shall not be required to provide funding for special education programs funded pursuant to this section based on clause (i) of subparagraph (B) of paragraph (4) of subdivision (d) of Section 97.2 of the Revenue and Taxation Code, or clause (i) of subparagraph (B) of paragraph (4) of subdivision (d) of Section 97.3 of the Revenue and Taxation Code, or both, for a fiscal year prior to the 2007–08 fiscal year that it has not already provided for these programs prior to the start of the 2007–08 fiscal year.

SEC. 2. Section 97.2 of the Revenue and Taxation Code is amended to read:

97.2. Notwithstanding any other provision of this chapter, the computations and allocations made by each county pursuant to Section 96.1 or its predecessor section shall be modified for the 1992–93 fiscal year pursuant to subdivisions (a) to (d), inclusive, and for the 1997–98 and 1998–99 fiscal years pursuant to subdivision (e), as follows:

(a) (1) Except as provided in paragraph (2), the amount of property tax revenue deemed allocated in the prior fiscal year to each county shall be reduced by the dollar amounts indicated as follows, multiplied by 0.953649:

	Property Tax Reduction per County
Alameda	$ 27,323,576
Alpine	5,169
Amador	286,131
Butte	846,452
Calaveras	507,526
Colusa	186,438
Contra Costa	12,504,318
Del Norte	46,523
El Dorado	1,544,590
Fresno	5,387,570
Glenn	378,055
Humboldt	1,084,968
Imperial	998,222
Inyo	366,402

Kern	6,907,282
Kings	1,303,774
Lake	998,222
Lassen	93,045
Los Angeles	244,178,806
Madera	809,194
Marin	3,902,258
Mariposa	40,136
Mendocino	1,004,112
Merced	2,445,709
Modoc	134,650
Mono	319,793
Monterey	2,519,507
Napa	1,362,036
Nevada	762,585
Orange	9,900,654
Placer	1,991,265
Plumas	71,076
Riverside	7,575,353
Sacramento	15,323,634
San Benito	198,090
San Bernardino	14,467,099
San Diego	17,687,776
San Francisco	53,266,991
San Joaquin	8,574,869
San Luis Obispo	2,547,990
San Mateo	7,979,302
Santa Barbara	4,411,812
Santa Clara	20,103,706
Santa Cruz	1,416,413
Shasta	1,096,468
Sierra	97,103
Siskiyou	467,390
Solano	5,378,048
Sonoma	5,455,911
Stanislaus	2,242,129
Sutter	831,204
Tehama	450,559
Trinity	50,399
Tulare	4,228,525
Tuolumne	740,574
Ventura	9,412,547
Yolo	1,860,499

Yuba..... 842,857

(2) Notwithstanding paragraph (1), the amount of the reduction specified in that paragraph for any county or city and county that has been materially and substantially impacted as a result of a federally declared disaster, as evidenced by at least 20 percent of the cities, or cities and unincorporated areas of the county representing 20 percent of the population within the county suffering substantial damage, as certified by the Director of the Office of Emergency Services, occurring between October 1, 1989, and the effective date of this section, shall be reduced by that portion of five million dollars ($5,000,000) determined for that county or city and county pursuant to subparagraph (B) of paragraph (3).

(3) On or before October 1, 1992, the Director of Finance shall do all of the following:

(A) Determine the population of each county and city and county in which a federally declared disaster has occurred between October 1, 1989, and the effective date of this section.

(B) Determine for each county and city and county as described in subparagraph (A) its share of five million dollars ($5,000,000) on the basis of that county's population relative to the total population of all counties described in subparagraph (A).

(C) Notify each auditor of each county and city and county of the amounts determined pursuant to subparagraph (B).

(b) (1) Except as provided in paragraph (2), the amount of property tax revenue deemed allocated in the prior fiscal year to each city, except for a newly incorporated city that did not receive property tax revenues in the 1991–92 fiscal year, shall be reduced by 9 percent. In making the above computation with respect to cities in Alameda County, the computation for a city described in paragraph (6) of subdivision (a) of Section 100.7, as added by Section 73.5 of Chapter 323 of the Statutes of 1983, shall be adjusted so that the amount multiplied by 9 percent is reduced by the amount determined for that city for "museums" pursuant to paragraph (2) of subdivision (h) of Section 95.

(2) Notwithstanding paragraph (1), the amount of the reduction determined pursuant to that paragraph for any city that has been materially and substantially impacted as a result of a federally declared disaster, as certified by the Director of the Office of Emergency Services, occurring between October 1, 1989, and the effective date of this section, shall be reduced by that portion of fifteen million dollars ($15,000,000) determined for that city pursuant to subparagraph (B) of paragraph (3).

(3) On or before October 1, 1992, the Director of Finance shall do all of the following:

(A) Determine the population of each city in which a federally declared disaster has occurred between October 1, 1989, and the effective date of this section.

(B) Determine for each city as described in subparagraph (A) its share of fifteen million dollars ($15,000,000) on the basis of that city's population relative to the total population of all cities described in subparagraph (A).

(C) Notify each auditor of each county and city and county of the amounts determined pursuant to subparagraph (B).

(4) In the 1992–93 fiscal year and each fiscal year thereafter, the auditor shall adjust the computations required pursuant to Article 4 (commencing with Section 98) so that those computations do not result in the restoration of any reduction required pursuant to this section.

(c) (1) Subject to paragraph (2), the amount of property tax revenue, other than those revenues that are pledged to debt service, deemed allocated in the prior fiscal year to a special district, other than a multicounty district, a local hospital district, or a district governed by a city council or whose governing board has the same membership as a city council, shall be reduced by 35 percent. For purposes of this subdivision, "revenues that are pledged to debt service" include only those amounts required to pay debt service costs in the 1991–92 fiscal year on debt instruments issued by a special district for the acquisition of capital assets.

(2) No reduction pursuant to paragraph (1) for any special district, other than a countywide water agency that does not sell water at retail, shall exceed an amount equal to 10 percent of that district's total annual revenues, from whatever source, as shown in the 1989–90 edition of the State Controller's Report on Financial Transactions Concerning Special Districts (not including any annual revenues from fiscal years following the 1989–90 fiscal year). With respect to any special district, as defined pursuant to subdivision (m) of Section 95, that is allocated property tax revenue pursuant to this chapter but does not appear in the State Controller's Report on Financial Transactions Concerning Special Districts, the auditor shall determine the total annual revenues for that special district from the information in the 1989–90 edition of the State Controller's Report on Financial Transactions Concerning Counties. With respect to a special district that did not exist in the 1989–90 fiscal year, the auditor may use information from the first full fiscal year, as appropriate, to determine the total annual revenues for that special district. No reduction pursuant to paragraph (1) for any countywide water agency that does not sell water at retail shall exceed an amount equal to 10 percent of that portion of that agency's general fund derived from property tax revenues.

(3) The auditor in each county shall, on or before January 15, 1993, and on or before January 30 of each year thereafter, submit information to the Controller concerning the amount of the property tax revenue reduction to each special district within that county as a result of paragraphs (1) and (2). The Controller shall certify that the calculation of the property tax revenue reduction to each special district within that county is accurate and correct, and submit this information to the Director of Finance.

(A) The Director of Finance shall determine whether the total of the amounts of the property tax revenue reductions to special districts, as certified by the Controller, is equal to the amount that would be required to be allocated to school districts and community college districts as a result of a three hundred seventy-five million dollar ($375,000,000) shift of property tax revenues from special districts for the 1992–93 fiscal year. If, for any year, the total of the amount of the property tax revenue reductions to special districts is less than the amount as described in the preceding sentence, the amount of property tax revenue, other than those revenues that are pledged to debt service, deemed allocated in the prior fiscal year to a special district, other than a multicounty district, a local hospital district, or a district governed by a city council or whose governing board has the same membership as a city council, shall, subject to subparagraph (B), be reduced by an amount up to 5 percent of the amount subject to reduction for that district pursuant to paragraphs (1) and (2).

(B) No reduction pursuant to subparagraph (A), in conjunction with a reduction pursuant to paragraphs (1) and (2), for any special district, other than a countywide water agency that does not sell water at retail, shall exceed an amount equal to 10 percent of that district's total annual revenues, from whatever source, as shown in the most recent State Controller's Report on Financial Transactions Concerning Special Districts. No reduction pursuant to subparagraph (A), in conjunction with a reduction pursuant to paragraphs (1) and (2), for any countywide water agency that does not sell water at retail shall exceed an amount equal to 10 percent of that portion of that agency's general fund derived from property tax revenues.

(C) In no event shall the amount of the property tax revenue loss to a special district derived pursuant to subparagraphs (A) and (B) exceed 40 percent of that district's property tax revenues or 10 percent of that district's total revenues, from whatever source.

(4) For the purpose of determining the total annual revenues of a special district that provides fire protection or fire suppression services, all of the following shall be excluded from the determination of total annual revenues:

(A) If the district had less than two million dollars ($2,000,000) in total annual revenues in the 1991–92 fiscal year, the revenue generated by a fire suppression assessment levied pursuant to Article 3.6 (commencing with Section 50078) of Chapter 1 of Part 1 of Division 1 of Title 5 of the Government Code.

(B) The total amount of all funds, regardless of the source, that are appropriated to a district, including a fire department, by a board of supervisors pursuant to Section 25642 of the Government Code or Chapter 7 (commencing with Section 13890) of Part 2.7 of Division 12 of the Health and Safety Code for fire protection. The amendment of this subparagraph by Chapter 290 of the Statutes of 1997 shall not be construed to affect any exclusion from the total annual revenues of a special district that was authorized by this subparagraph as it read prior to that amendment.

(C) The revenue received by a district as a result of contracts entered into pursuant to Section 4133 of the Public Resources Code.

(5) For the purpose of determining the total annual revenues of a resource conservation district, all of the following shall be excluded from the determination of total annual revenues:

(A) Any revenues received by that district from the state for financing the acquisition of land, or the construction or improvement of state projects, and for which that district serves as the fiscal agent in administering those state funds pursuant to an agreement entered into between that district and a state agency.

(B) Any amount received by that district as a private gift or donation.

(C) Any amount received as a county grant or contract as supplemental to, or independent of, that district's property tax share.

(D) Any amount received by that district as a federal or state grant.

(d) (1) The amount of property tax revenues not allocated to the county, cities within the county, and special districts as a result of the reductions calculated pursuant to subdivisions (a), (b), and (c) shall instead be deposited in the Educational Revenue Augmentation Fund to be established in each county. The amount of revenue in the Educational Revenue Augmentation Fund, derived from whatever source, shall be allocated pursuant to paragraphs (2) and (3) to school districts and county offices of education, in total, and to community college districts, in total, in the same proportion that property tax revenues were distributed to school districts and county offices of education, in total, and community college districts, in total, during the 1991–92 fiscal year.

(2) The auditor shall, based on information provided by the county superintendent of schools pursuant to this paragraph, allocate the proportion of the Educational Revenue Augmentation Fund to those school districts and county offices of education within the county that

are not excess tax school entities, as defined in subdivision (n) of Section 95. The county superintendent of schools shall determine the amount to be allocated to each school district and county office of education in inverse proportion to the amounts of property tax revenue per average daily attendance in each school district and county office of education. In no event shall any additional money be allocated from the fund to a school district or county office of education upon that school district or county office of education becoming an excess tax school entity.

(3) The auditor shall, based on information provided by the Chancellor of the California Community Colleges pursuant to this paragraph, allocate the proportion of the Educational Revenue Augmentation Fund to those community college districts within the county that are not excess tax school entities, as defined in subdivision (n) of Section 95. The chancellor shall determine the amount to be allocated to each community college district in inverse proportion to the amounts of property tax revenue per funded full-time equivalent student in each community college district. In no event shall any additional money be allocated from the fund to a community college district upon that district becoming an excess tax school entity.

(4) (A) If, after making the allocation required pursuant to paragraph (2), the auditor determines that there are still additional funds to be allocated, the auditor shall allocate those excess funds pursuant to paragraph (3). If, after making the allocation pursuant to paragraph (3), the auditor determines that there are still additional funds to be allocated, the auditor shall allocate those excess funds pursuant to paragraph (2).

(B) (i) (I) For the 1995–96 fiscal year and each fiscal year thereafter, if, after making the allocations pursuant to paragraphs (2) and (3) and subparagraph (A), the auditor determines that there are still additional funds to be allocated, the auditor shall, subject to clauses (ii) and (iii), allocate those excess funds to the county superintendent of schools. Funds allocated pursuant to this subclause shall be counted as property tax revenues for special education programs in augmentation of the amount calculated pursuant to Section 2572 of the Education Code, to the extent that those property tax revenues offset state aid for county offices of education and school districts within the county pursuant to subdivision (c) of Section 56836.08 of the Education Code.

(II) For the 2007–08 fiscal year and for each fiscal year thereafter, both of the following apply:

(ia) In allocating the revenues described in subclause (I), the auditor shall apportion funds to the appropriate special education local plan area to cover the amount determined in Section 56836.173 of the Education Code.

(ib) Except as otherwise provided by sub-subclause (ia), property tax revenues described in subclause (I) shall not be apportioned to special education programs funded pursuant to Section 56836.173 of the Education Code.

(III) If, for the 2000–01 fiscal year or any fiscal year thereafter, any additional revenues remain after the implementation of subclauses (I) and (II), the auditor shall allocate those remaining revenues among the county, cities, and special districts in proportion to the amounts of ad valorem property tax revenue otherwise required to be shifted from those local agencies to the county's Educational Revenue Augmentation Fund for the relevant fiscal year.

(IV) A county Educational Revenue Augmentation Fund shall not be required to provide funding for special education programs funded pursuant to Section 56836.173 of the Education Code or any predecessor to that section for a fiscal year prior to the 2007–08 fiscal year that it has not already provided for these programs prior to the beginning of the 2007–08 fiscal year.

(ii) For the 1995–96 fiscal year only, clause (i) shall have no application to the County of Mono and the amount allocated pursuant to clause (i) in the County of Marin shall not exceed five million dollars ($5,000,000).

(iii) For the 1996–97 fiscal year only, the total amount of funds allocated by the auditor pursuant to clause (i) and clause (i) of subparagraph (B) of paragraph (4) of subdivision (d) of Section 97.3 shall not exceed that portion of two million five hundred thousand dollars ($2,500,000) that corresponds to the county's proportionate share of all moneys allocated pursuant to clause (i) and clause (i) of subparagraph (B) of paragraph (4) of subdivision (d) of Section 97.3 for the 1995–96 fiscal year. Upon the request of the auditor, the Department of Finance shall provide to the auditor all information in the department's possession that is necessary for the auditor to comply with this clause.

(iv) Notwithstanding clause (i) of this subparagraph, for the 1999–2000 fiscal year only, if, after making the allocations pursuant to paragraphs (2) and (3) and subparagraph (A), the auditor determines that there are still additional funds to be allocated, the auditor shall allocate the funds to the county, cities, and special districts in proportion to the amounts of ad valorem property tax revenue otherwise required to be shifted from those local agencies to the county's Educational Revenue Augmentation Fund for the relevant fiscal year. The amount allocated pursuant to this clause shall not exceed eight million two hundred thirty-nine thousand dollars ($8,239,000), as appropriated in Item 6110-250-0001 of Section 2.00 of the Budget Act of 1999 (Chapter 50, Statutes of 1999). This clause shall be operative for the 1999–2000 fiscal

year only to the extent that moneys are appropriated for purposes of this clause in the Budget Act of 1999 by an appropriation that specifically references this clause.

(C) For purposes of allocating the Educational Revenue Augmentation Fund for the 1996–97 fiscal year, the auditor shall, after making the allocations for special education programs, if any, required by subparagraph (B), allocate all remaining funds among the county, cities, and special districts in proportion to the amounts of ad valorem property tax revenue otherwise required to be shifted from those local agencies to the county's Educational Revenue Augmentation Fund for the relevant fiscal year. For purposes of ad valorem property tax revenue allocations for the 1997–98 fiscal year and each fiscal year thereafter, no amount of ad valorem property tax revenue allocated to the county, a city, or a special district pursuant to this subparagraph shall be deemed to be an amount of ad valorem property tax revenue allocated to that local agency in the prior fiscal year.

(5) For purposes of allocations made pursuant to Section 96.1 or its predecessor section for the 1993–94 fiscal year, the amounts allocated from the Educational Revenue Augmentation Fund pursuant to this subdivision, other than amounts deposited in the Educational Revenue Augmentation Fund pursuant to Section 33681 of the Health and Safety Code, shall be deemed property tax revenue allocated to the Educational Revenue Augmentation Fund in the prior fiscal year.

(e) (1) For the 1997–98 fiscal year:

(A) The amount of property tax revenue deemed allocated in the prior fiscal year to any city subject to the reduction specified in paragraph (2) of subdivision (b) shall be reduced by an amount that is equal to the difference between the amount determined for the city pursuant to paragraph (1) of subdivision (b) and the amount of the reduction determined for the city pursuant to paragraph (2) of subdivision (b).

(B) The amount of property tax revenue deemed allocated in the prior fiscal year to any county or city and county subject to the reduction specified in paragraph (2) of subdivision (a) shall be reduced by an amount that is equal to the difference between the amount specified for the county or city and county pursuant to paragraph (1) of subdivision (a) and the amount of the reduction determined for the county or city and county pursuant to paragraph (2) of subdivision (a).

(2) The amount of property tax revenues not allocated to a city or city and county as a result of this subdivision shall be deposited in the Educational Revenue Augmentation Fund described in subparagraph (A) of paragraph (1) of subdivision (d).

(3) For purposes of allocations made pursuant to Section 96.1 for the 1998–99 fiscal year, the amounts allocated from the Educational Revenue

Augmentation Fund pursuant to this subdivision shall be deemed property tax revenues allocated to the Educational Revenue Augmentation Fund in the prior fiscal year.

(f) It is the intent of the Legislature in enacting this section that this section supersede and be operative in place of Section 97.03 of the Revenue and Taxation Code, as added by Senate Bill 617 of the 1991–92 Regular Session.

SEC. 3. Section 97.3 of the Revenue and Taxation Code is amended to read:

97.3. Notwithstanding any other provision of this chapter, the computations and allocations made by each county pursuant to Section 96.1 or its predecessor section, as modified by Section 97.2 or its predecessor section for the 1992–93 fiscal year, shall be modified for the 1993–94 fiscal year pursuant to subdivisions (a) to (c), inclusive, as follows:

(a) The amount of property tax revenue deemed allocated in the prior fiscal year to each county and city and county shall be reduced by an amount to be determined by the Director of Finance in accordance with the following:

(1) The total amount of the property tax reductions for counties and cities and counties determined pursuant to this section shall be one billion nine hundred ninety-eight million dollars ($1,998,000,000) in the 1993–94 fiscal year.

(2) The Director of Finance shall determine the amount of the reduction for each county or city and county as follows:

(A) The proportionate share of the property tax revenue reduction for each county or city and county that would have been imposed on all counties under the proposal specified in the "May Revision of the 1993–94 Governor's Budget" shall be determined by reference to the document entitled "Estimated County Property Tax Transfers Under Governor's May Revision Proposal," published by the Legislative Analyst's Office on June 1, 1993.

(B) Each county's or city and county's proportionate share of total taxable sales in all counties in the 1991–92 fiscal year shall be determined.

(C) An amount for each county and city and county shall be determined by applying its proportionate share determined pursuant to subparagraph (A) to the one billion nine hundred ninety-eight million dollar ($1,998,000,000) statewide reduction for counties and cities and counties.

(D) An amount for each county and city and county shall be determined by applying its proportionate share determined pursuant to subparagraph (B) to the one billion nine hundred ninety-eight million

dollar ($1,998,000,000) statewide reduction for counties and cities and counties.

(E) The Director of Finance shall add the amounts determined pursuant to subparagraphs (C) and (D) for each county and city and county, and divide the resulting figure by two. The amount so determined for each county and city and county shall be divided by a factor of 1.038. The resulting figure shall be the amount of property tax revenue to be subtracted from the amount of property tax revenue deemed allocated in the prior fiscal year.

(3) The Director of Finance shall, by July 15, 1993, report to the Joint Legislative Budget Committee its determination of the amounts determined pursuant to paragraph (2).

(4) On or before August 15, 1993, the Director of Finance shall notify the auditor of each county and city and county of the amount of property tax revenue reduction determined for each county and city and county.

(5) Notwithstanding any other provision of this subdivision, the amount of the reduction specified in paragraph (2) for any county or city and county that has first implemented, for the 1993–94 fiscal year, the alternative procedure for the distribution of property tax levies authorized by Chapter 3 (commencing with Section 4701) of Part 8 shall be reduced, for the 1993–94 fiscal year only, in the amount of any increased revenue allocated to each qualifying school entity that would not have been allocated for the 1993–94 fiscal year but for the implementation of that alternative procedure. For purposes of this paragraph, "qualifying school entity" means any school district, county office of education, or community college district that is not an excess tax school entity as defined in Section 95, and a county's Educational Revenue Augmentation Fund as described in subdivision (d) of this section and subdivision (d) of Section 97.2. Notwithstanding any other provision of this paragraph, the amount of any reduction calculated pursuant to this paragraph for any county or city and county shall not exceed the reduction calculated for that county or city and county pursuant to paragraph (2).

(6) Notwithstanding the provisions of paragraph (5), the amount of the reduction specified in paragraph (2) for a county of the 16th class that has first implemented, for the 1993–94 fiscal year, the alternative procedure for the distribution of property tax levies authorized by Chapter 2 (commencing with Section 4701) of Part 8 shall be reduced, for the 1993–94 fiscal year only, in the amount of any increased revenue distributed to each qualifying school entity that would not have been distributed for the 1993–94 fiscal year, pursuant to the historical accounting method of that county of the 16th class, but for the implementation of that alternative procedure. For purposes of this paragraph, "qualifying school entity" means any school district, county

office of education, or community college district that is not an excess tax school entity as defined in Section 95, and a county's Educational Revenue Augmentation Fund as described in subdivision (a) of this section and subdivision (d) of Section 97.2. Notwithstanding any other provision of this paragraph, the amount of any reduction calculated pursuant to this paragraph for any county shall not exceed the reduction calculated for that county pursuant to paragraph (2).

(b) The amount of property tax revenue deemed allocated in the prior fiscal year to each city shall be reduced by an amount to be determined by the Director of Finance in accordance with the following:

(1) The total amount of the property tax reductions determined for cities pursuant to this section shall be two hundred eighty-eight million dollars ($288,000,000) in the 1993–94 fiscal year.

(2) The Director of Finance shall determine the amount of reduction for each city as follows:

(A) The amount of property tax revenue that is estimated to be attributable in the 1993–94 fiscal year to the amount of each city's state assistance payment received by that city pursuant to Chapter 282 of the Statutes of 1979 shall be determined.

(B) A factor for each city equal to the amount determined pursuant to subparagraph (A) for that city, divided by the total of the amounts determined pursuant to subparagraph (A) for all cities, shall be determined.

(C) An amount for each city equal to the factor determined pursuant to subparagraph (B), multiplied by three hundred eighty-two million five hundred thousand dollars ($382,500,000), shall be determined.

(D) In no event shall the amount for any city determined pursuant to subparagraph (C) exceed a per capita amount of nineteen dollars and thirty-one cents ($19.31), as determined in accordance with that city's population on January 1, 1993, as estimated by the Department of Finance.

(E) The amount determined for each city pursuant to subparagraphs (C) and (D) shall be the amount of property tax revenue to be subtracted from the amount of property tax revenue deemed allocated in the prior year.

(3) The Director of Finance shall, by July 15, 1993, report to the Joint Legislative Budget Committee those amounts determined pursuant to paragraph (2).

(4) On or before August 15, 1993, the Director of Finance shall notify each county auditor of the amount of property tax revenue reduction determined for each city located within that county.

(c) (1) The amount of property tax revenue deemed allocated in the prior fiscal year to each special district, as defined pursuant to subdivision

(m) of Section 95, shall be reduced by the amount determined for the district pursuant to paragraph (3) and increased by the amount determined for the district pursuant to paragraph (4). The total net amount of these changes is intended to equal two hundred forty-four million dollars ($244,000,000) in the 1993–94 fiscal year.

(2) (A) Notwithstanding any other provision of this subdivision, no reduction shall be made pursuant to this subdivision with respect to any of the following special districts:

(i) A local hospital district as described in Division 23 (commencing with Section 32000) of the Health and Safety Code.

(ii) A water agency that does not sell water at retail, but not including an agency the primary function of which, as determined on the basis of total revenues, is flood control.

(iii) A transit district.

(iv) A police protection district formed pursuant to Part 1 (commencing with Section 20000) of Division 14 of the Health and Safety Code.

(v) A special district that was a multicounty special district as of July 1, 1979.

(B) Notwithstanding any other provision of this subdivision, the first one hundred four thousand dollars ($104,000) of the amount of any reduction that otherwise would be made under this subdivision with respect to a qualifying community services district shall be excluded. For purposes of this subparagraph, a "qualifying community services district" means a community services district that meets all of the following requirements:

(i) Was formed pursuant to Division 3 (commencing with Section 61000) of Title 6 of the Government Code.

(ii) Succeeded to the duties and properties of a police protection district upon the dissolution of that district.

(iii) Currently provides police protection services to substantially the same territory as did that district.

(iv) Is located within a county in which the board of supervisors has requested the Department of Finance that this subparagraph be operative in the county.

(3) (A) On or before September 15, 1993, the county auditor shall determine an amount for each special district equal to the amount of its allocation determined pursuant to Section 96 or 96.1, and Section 96.5 or their predecessor sections for the 1993–94 fiscal year multiplied by the ratio determined pursuant to paragraph (1) of subdivision (a) of former Section 98.6 as that section read on June 15, 1993. In those counties that were subject to former Sections 98.66, 98.67, and 98.68, as those sections read on that same date, the county auditor shall

determine an amount for each special district that represents the current amount of its allocation determined pursuant to Section 96 or 96.1, and Section 96.5 or their predecessor sections for the 1993–94 fiscal year that is attributed to the property tax shift from schools required by Chapter 282 of the Statutes of 1979. In that county subject to Section 100.4, the county auditor shall determine an amount for each special district that represents the current amount of its allocations determined pursuant to Section 96, 96.1, 96.5, or 100.4 or their predecessor sections for the 1993–94 fiscal year that is attributable to the property tax shift from schools required by Chapter 282 of the Statutes of 1979. In determining these amounts, the county auditor shall adjust for the influence of increased assessed valuation within each district, including the effect of jurisdictional changes, and the reductions in property tax allocations required in the 1992–93 fiscal year by Chapters 699 and 1369 of the Statutes of 1992. In the case of a special district that has been consolidated or reorganized, the auditor shall determine the amount of its current property tax allocation that is attributable to the prior district's or districts' receipt of state assistance payments pursuant to Chapter 282 of the Statutes of 1979. Notwithstanding any other provision of this paragraph, for a special district that is governed by a city council or whose governing board has the same membership as a city council and that is a subsidiary district as defined in subdivision (e) of Section 16271 of the Government Code, the county auditor shall multiply the amount that otherwise would be calculated pursuant to this paragraph by 0.38 and the result shall be used in the calculations required by paragraph (5). In no event shall the amount determined by this paragraph be less than zero.

(B) Notwithstanding subparagraph (A), commencing with the 1994–95 fiscal year, in the County of Sacramento, the auditor shall determine the amount for each special district that represents the current amount of its allocations determined pursuant to Section 96, 96.1, 96.5, or 100.6 for the 1994–95 fiscal year that is attributed to the property tax shift from schools required by Chapter 282 of the Statutes of 1979.

(4) (A) (i) On or before September 15, 1993, the county auditor shall determine an amount for each special district that is engaged in fire protection activities, as reported to the Controller for inclusion in the 1989–90 edition of the Financial Transactions Report Concerning Special Districts under the heading of "Fire Protection," that is equal to the amount of revenue allocated to that special district from the Special District Augmentation Fund for fire protection activities in the 1992–93 fiscal year. For purposes of the preceding sentence for counties of the second class, the phrase "amount of revenue allocated to that special district" means an amount of revenue that was identified for transfer to

that special district, rather than the amount of revenue that was actually received by that special district pursuant to that transfer.

(ii) In the case of a special district, other than a special district governed by the county board of supervisors or whose governing body is the same as the county board of supervisors, that is engaged in fire protection activities as reported to the Controller, the county auditor shall also determine the amount by which the district's amount determined pursuant to paragraph (3) exceeds the amount by which its allocation was reduced by operation of former Section 98.6 in the 1992–93 fiscal year. This amount shall be added to the amount otherwise determined for the district under this paragraph. In any county subject to former Section 98.65, 98.66, 98.67, or 98.68 in that same fiscal year, the county auditor shall determine for each special district that is engaged in fire protection activities an amount that is equal to the amount determined for that district pursuant to paragraph (3).

(B) For purposes of this paragraph, a special district includes any special district that is allocated property tax revenue pursuant to this chapter and does not appear in the State Controller's Report on Financial Transactions Concerning Special Districts, but is engaged in fire protection activities and appears in the State Controller's Report on Financial Transactions Concerning Counties.

(5) The total amount of property taxes allocated to special districts by the county auditor as a result of paragraph (4) shall be subtracted from the amount of property tax revenues not allocated to special districts by the county auditor as a result of paragraph (3) to determine the amount to be deposited in the Education Revenue Augmentation Fund as specified in subdivision (d).

(6) On or before September 30, 1993, the county auditor shall notify the Director of Finance of the net amount determined for special districts pursuant to paragraph (5).

(d) (1) The amount of property tax revenues not allocated to the county, city and county, cities within the county, and special districts as a result of the reductions required by subdivisions (a), (b), and (c) shall instead be deposited in the Educational Revenue Augmentation Fund established in each county or city and county pursuant to Section 97.2. The amount of revenue in the Educational Revenue Augmentation Fund, derived from whatever source, shall be allocated pursuant to paragraphs (2) and (3) to school districts and county offices of education, in total, and to community college districts, in total, in the same proportion that property tax revenues were distributed to school districts and county offices of education, in total, and community college districts, in total, during the 1992–93 fiscal year.

(2) The county auditor shall, based on information provided by the county superintendent of schools pursuant to this paragraph, allocate that proportion of the revenue in the Educational Revenue Augmentation Fund to be allocated to school districts and county offices of education only to those school districts and county offices of education within the county that are not excess tax school entities, as defined in subdivision (n) of Section 95. The county superintendent of schools shall determine the amount to be allocated to each school district in inverse proportion to the amounts of property tax revenue per average daily attendance in each school district. For each county office of education, the allocation shall be made based on the historical split of base property tax revenue between the county office of education and school districts within the county. In no event shall any additional money be allocated from the Educational Revenue Augmentation Fund to a school district or county office of education upon that district or county office of education becoming an excess tax school entity. If, after determining the amount to be allocated to each school district and county office of education, the county superintendent of schools determines there are still additional funds to be allocated, the county superintendent of schools shall determine the remainder to be allocated in inverse proportion to the amounts of property tax revenue, excluding Educational Revenue Augmentation Fund moneys, per average daily attendance in each remaining school district, and on the basis of the historical split described above for each county office of education that is not an excess tax school entity, until all funds that would not result in a school district or county office of education becoming an excess tax school entity are allocated. The county superintendent of schools may determine the amounts to be allocated between each school district and county office of education to ensure that all funds that would not result in a school district or county office of education becoming an excess tax school entity are allocated.

(3) The county auditor shall, based on information provided by the Chancellor of the California Community Colleges pursuant to this paragraph, allocate that proportion of the revenue in the Educational Revenue Augmentation Fund to be allocated to community college districts only to those community college districts within the county that are not excess tax school entities, as defined in subdivision (n) of Section 95. The chancellor shall determine the amount to be allocated to each community college district in inverse proportion to the amounts of property tax revenue per funded full-time equivalent student in each community college district. In no event shall any additional money be allocated from the Educational Revenue Augmentation Fund to a community college district upon that district becoming an excess tax school entity.

(4) (A) If, after making the allocation required pursuant to paragraph (2), the auditor determines that there are still additional funds to be allocated, the auditor shall allocate those excess funds pursuant to paragraph (3). If, after making the allocation pursuant to paragraph (3), the auditor determines that there are still additional funds to be allocated, the auditor shall allocate those excess funds pursuant to paragraph (2). If, after determining the amount to be allocated to each community college district, the Chancellor of the California Community Colleges determines that there are still additional funds to be allocated, the Chancellor of the California Community Colleges shall determine the remainder to be allocated to each community college district in inverse proportion to the amounts of property tax revenue, excluding Educational Revenue Augmentation Fund moneys, per funded full-time equivalent student in each remaining community college district that is not an excess tax school entity until all funds that would not result in a community college district becoming an excess tax school entity are allocated.

(B) (i) (I) For the 1995–96 fiscal year and each fiscal year thereafter, if, after making the allocations pursuant to paragraphs (2) and (3) and subparagraph (A), the auditor determines that there are still additional funds to be allocated, the auditor shall, subject to clauses (ii) and (iii), allocate those excess funds to the county superintendent of schools. Funds allocated pursuant to this subclause shall be counted as property tax revenues for special education programs in augmentation of the amount calculated pursuant to Section 2572 of the Education Code, to the extent that those property tax revenues offset state aid for county offices of education and school districts within the county pursuant to subdivision (c) of Section 56836.08 of the Education Code.

(II) For the 2007–08 fiscal year and for each fiscal year thereafter, both of the following apply:

(ia) In allocating the revenues described in subclause (I), the auditor shall apportion funds to the appropriate special education local plan area to cover the amount determined in Section 56836.173 of the Education Code.

(ib) Except as otherwise provided by sub-subclause (ia), property tax revenues described in subclause (I) shall not be apportioned to special education programs funded pursuant to Section 56836.173 of the Education Code.

(III) If, for the 2000–01 fiscal year or any fiscal year thereafter, any additional revenues remain after the implementation of subclauses (I) and (II), the auditor shall allocate those remaining revenues among the county, cities, and special districts in proportion to the amounts of ad valorem property tax revenue otherwise required to be shifted from those

local agencies to the county's Educational Revenue Augmentation Fund for the relevant fiscal year.

(IV) A county Educational Revenue Augmentation Fund shall not be required to provide funding for special education programs funded pursuant to Section 56836.173 of the Education Code or any predecessor to that section for a fiscal year prior to the 2007–08 fiscal year that it has not already provided for these programs prior to the beginning of the 2007–08 fiscal year.

(ii) For the 1995–96 fiscal year only, clause (i) shall have no application to the County of Mono and the amount allocated pursuant to clause (i) in the County of Marin shall not exceed five million dollars ($5,000,000).

(iii) For the 1996–97 fiscal year only, the total amount of funds allocated by the auditor pursuant to clause (i) and clause (i) of subparagraph (B) of paragraph (4) of subdivision (d) of Section 97.2 shall not exceed that portion of two million five hundred thousand dollars ($2,500,000) that corresponds to the county's proportionate share of all moneys allocated pursuant to clause (i) and clause (i) of subparagraph (B) of paragraph (4) of subdivision (d) of Section 97.2 for the 1995–96 fiscal year. Upon the request of the auditor, the Department of Finance shall provide to the auditor all information in the department's possession that is necessary for the auditor to comply with this clause.

(iv) Notwithstanding clause (i) of this subparagraph, for the 1999–2000 fiscal year only, if, after making the allocations pursuant to paragraphs (2) and (3) and subparagraph (A), the auditor determines that there are still additional funds to be allocated, the auditor shall allocate the funds to the county, cities, and special districts in proportion to the amounts of ad valorem property tax revenue otherwise required to be shifted from those local agencies to the county's Educational Revenue Augmentation Fund for the relevant fiscal year. The amount allocated pursuant to this clause shall not exceed eight million two hundred thirty-nine thousand dollars ($8,239,000), as appropriated in Item 6110-250-0001 of Section 2.00 of the Budget Act of 1999 (Chapter 50, Statutes of 1999).

(C) For purposes of allocating the Educational Revenue Augmentation Fund for the 1996–97 fiscal year, the auditor shall, after making the allocations for special education programs, if any, required by subparagraph (B), allocate all remaining funds among the county, cities, and special districts in proportion to the amounts of ad valorem property tax revenue otherwise required to be shifted from those local agencies to the county's Educational Revenue Augmentation Fund for the relevant fiscal year. For purposes of ad valorem property tax revenue allocations for the 1997–98 fiscal year and each fiscal year thereafter, no amount

of ad valorem property tax revenue allocated to the county, a city, or a special district pursuant to this subparagraph shall be deemed to be an amount of ad valorem property tax revenue allocated to that local agency in the prior fiscal year.

(5) For purposes of allocations made pursuant to Section 96.1 for the 1994–95 fiscal year, the amounts allocated from the Educational Revenue Augmentation Fund pursuant to this subdivision, other than those amounts deposited in the Educational Revenue Augmentation Fund pursuant to any provision of the Health and Safety Code, shall be deemed property tax revenue allocated to the Educational Revenue Augmentation Fund in the prior fiscal year.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act provides for offsetting savings to local agencies or school districts that result in no net costs to the local agencies or school districts, within the meaning of Section 17556 of the Government Code.

CHAPTER 464

An act to amend Section 8712 of the Family Code, and to amend Section 18260 of, and to add Sections 16519 and 16519.5 to, the Welfare and Institutions Code, relating to public social services.

[Approved by Governor October 11, 2007. Filed with Secretary of State October 11, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 8712 of the Family Code is amended to read:

8712. (a) The department or licensed adoption agency shall require each person filing an application for adoption to be fingerprinted and shall secure from an appropriate law enforcement agency any criminal record of that person to determine whether the person has ever been convicted of a crime other than a minor traffic violation. The department or a licensed adoption agency may also secure the person's full criminal record, if any. Any federal level criminal offender record requests to the Department of Justice shall be submitted with fingerprint images and related information required by the Department of Justice for the purposes of obtaining information as to the existence and content of a record of an out-of-state or federal conviction or arrest of a person or information regarding any out-of-state or federal crimes or arrests for which the Department of Justice establishes that the person is free on bail, or on

his or her own recognizance pending trial or appeal. The Department of Justice shall forward to the Federal Bureau of Investigation any such requests for federal summary criminal history information received pursuant to this section. The Department of Justice shall review the information returned from the Federal Bureau of Investigation and shall compile and disseminate a response to the department or a licensed adoption agency.

(b) The criminal record, if any, shall be taken into consideration when evaluating the prospective adoptive parent, and an assessment of the effects of any criminal history on the ability of the prospective adoptive parent to provide adequate and proper care and guidance to the child shall be included in the report to the court.

(c) Any fee charged by a law enforcement agency for fingerprinting or for checking or obtaining the criminal record of the applicant shall be paid by the applicant. The department or licensed adoption agency may defer, waive, or reduce the fee when its payment would cause economic hardship to prospective adoptive parents detrimental to the welfare of the adopted child, when the child has been in the foster care of the prospective adoptive parents for at least one year, or if necessary for the placement of a special-needs child.

SEC. 2. Section 16519 is added to the Welfare and Institutions Code, to read:

16519. The Legislature finds and declares the following:

(a) Safety, permanency, and well-being are crucial for the more than 82,000 California children in foster care, and are paramount to achieving both federal and state child welfare system improvement goals. Foster children need safe homes with permanent connections to family or other caring adults. The current licensing and approval system, which screens families to care for foster children, fails to support these outcomes.

(b) Children in foster care live in a variety of out-of-home care settings: licensed foster family homes, approved relative and nonrelative extended family member homes, foster family agencies, and group homes. All of these placement types, considered facilities under current law, are required to meet the respective health and safety standards in order to be licensed or approved. This has produced administrative inefficiencies and confusion among stakeholders, and has contributed to difficulty in recruiting suitable foster family homes for children in out-of-home care. Increasing the number of available suitable homes will improve the likelihood that the best home will be initially identified to meet a child's particular needs.

(c) Child safety and well-being are not achieved solely by ensuring that the home the child is placed in is free from physical hazards and that adults living in the home do not have disqualifying criminal

convictions or past reports of child abuse. Child safety and well-being are also dependent upon consideration of the resource family's psychosocial history that includes physical health, mental health, alcohol and substance abuse, family violence or abuse, and experience caring for children.

(d) Research shows that children in out-of-home care placed with relatives and nonrelative extended family members are more stable, more likely to be placed with siblings, and more likely to stay connected to their community and extended family. California statutory and regulatory provisions should maximize the likelihood that a child will initially be placed in the care of a safe relative or nonrelative extended family member who is willing to provide permanent care if reunification cannot be achieved.

(e) Families living in the same neighborhood as a family from which a child has been removed are often best suited to provide for the immediate placement needs of that child.

(f) Families who provide care to children in out-of-home placement are a valuable resource to the people of this state and to the children for whom they provide care.

SEC. 3. Section 16519.5 is added to the Welfare and Institutions Code, to read:

16519.5. (a) The State Department of Social Services, in consultation with county child welfare agencies, foster parent associations, and other interested community parties, shall implement a pilot program to establish a unified, family friendly, and child-centered resource family approval process to replace the existing multiple processes for licensing foster family homes, approving relatives and nonrelative extended family members as foster care providers, and approving adoptive families.

(b) Up to five counties shall be selected to participate on a voluntary basis in the pilot program, according to criteria developed by the department in consultation with the County Welfare Directors Association. In selecting the pilot counties, the department shall promote diversity among the participating counties in terms of size and geographic location.

(c) (1) For the purposes of this section, "resource family" means an individual or couple that a participating county determines to have successfully met both the home approval standards and the permanency assessment criteria adopted pursuant to subdivision (d) necessary for providing care for a related or unrelated child who is under the jurisdiction of the juvenile court, or otherwise in the care of a county child welfare agency or probation department. A resource family shall demonstrate all of the following:

(A) An understanding of the safety, permanence, and well-being needs of children who have been victims of child abuse and neglect, and the capacity and willingness to meet those needs, including the need for protection, and the willingness to make use of support resources offered by the agency, or a support structure in place, or both.

(B) An understanding of children's needs and development, effective parenting skills or knowledge about parenting, and the capacity to act as a reasonable, prudent parent in day-to-day decisionmaking.

(C) An understanding of his or her role as a resource family and the capacity to work cooperatively with the agency and other service providers in implementing the child's case plan.

(D) The financial ability within the household to ensure the stability and financial security of the family.

(E) An ability and willingness to maintain the least restrictive and most familylike environment that serves the needs of the child.

(2) Subsequent to meeting the criteria set forth in this subdivision and designation as a resource family, a resource family shall be considered eligible to provide foster care for related and unrelated children in out-of-home placement, shall be considered approved for adoption or guardianship, and shall not have to undergo any additional approval or licensure as long as the family lives in a county participating in the pilot program.

(3) Resource family assessment and approval means that the applicant meets the standard for home approval, and has successfully completed a permanency assessment. This approval is in lieu of the existing foster care license, relative or nonrelative extended family member approval, and the adoption home study approval.

(4) Approval of a resource family does not guarantee an initial or continued placement of a child with a resource family.

(d) Prior to implementation of this pilot program, the department shall adopt standards pertaining to home approval and permanency assessment of a resource family.

(1) Resource family home approval standards shall include, but not be limited to, all of the following:

(A) (i) Criminal records clearance of all adults residing in the home, pursuant to Section 8712 of the Family Code, utilizing a check of the Child Abuse Central Index (CACI), a check of the Child Welfare Services/Case Management System (CWS/CMS), receipt of a fingerprint-based state criminal offender record information search response, and submission of a fingerprint-based federal criminal offender record information search.

(ii) Consideration of any prior allegations of child abuse or neglect against either the applicant or any other adult residing in the home. An

approval may not be granted to applicants whose criminal record indicates a conviction for any of the offenses specified in clause (i) of subparagraph (A) of paragraph (1) of subdivision (g) of Section 1522 of the Health and Safety Code.

(iii) Exemptions from the criminal records clearance requirements set forth in this section may be granted by the director or the pilot county, if that county has been granted permission by the director to issue criminal records exemptions pursuant to Section 316.4, using the exemption criteria currently used for foster care licensing as specified in subdivision (g) of Section 1522 of the Health and Safety Code.

(B) Buildings and grounds, outdoor activity space, and storage requirements set forth in Sections 89387, 89387.1, and 89387.2 of Title 22 of the California Code of Regulations.

(C) In addition to the foregoing requirements, the resource family home approval standards shall also require the following:

(i) That the applicant demonstrate an understanding about the rights of children in care and his or her responsibility to safeguard those rights.

(ii) That the total number of children residing in the home of a resource family shall be no more than the total number of children the resource family can properly care for, regardless of status, and shall not exceed six children, unless exceptional circumstances that are documented in the foster child's case file exist to permit a resource family to care for more children, including, but not limited to, the need to place siblings together.

(iii) That the applicant understands his or her responsibilities with respect to acting as a reasonable and prudent parent, and maintaining the least restrictive and most family-like environment that serves the needs of the child.

(D) The results of a caregiver risk assessment are consistent with the factors listed in subparagraphs (A) to (D), inclusive, of paragraph (1) of subdivision (c). A caregiver risk assessment shall include, but not be limited to, physical and mental health, alcohol and other substance use and abuse, and family and domestic violence.

(2) The resource family permanency assessment standards shall include, but not be limited to, all of the following:

(A) The applicant shall complete caregiver training.

(B) The applicant shall complete a psychosocial evaluation.

(C) The applicant shall complete any other activities that relate to a resource family's ability to achieve permanency with the child.

(e) (1) A child may be placed with a resource family that has received home approval prior to completion of a permanency assessment only if a compelling reason for the placement exists based on the needs of the child.

(2) The permanency assessment shall be completed within 90 days of the child's placement in the approved home, unless good cause exists based upon the needs of the child.

(3) If additional time is needed to complete the permanency assessment, the county shall document the extenuating circumstances for the delay and generate a timeframe for the completion of the permanency assessment.

(4) The county shall report to the department on a quarterly basis the number of families with a child in an approved home whose permanency assessment goes beyond 90 days and summarize the reasons for these delays.

(5) A child may be placed with a relative, as defined in Section 319, or nonrelative extended family member, as defined in Section 362.7, prior to home approval and completion of the permanency assessment only on an emergency basis if all of the following requirements are met:

(A) Consideration of the results of a criminal records check conducted pursuant to Section 16504.5 of the relative or nonrelative extended family member and of every other adult in the home.

(B) Consideration of the results of the Child Abuse Central Index (CACI) consistent with Section 1522.1 of the Health and Safety Code of the relative or nonrelative extended family member, and of every other adult in the home.

(C) The home and grounds are free of conditions that pose undue risk to the health and safety of the child.

(D) For any placement made pursuant to this paragraph, the county shall initiate the home approval process no later than five business days after the placement, which shall include a face-to-face interview with the resource family applicant and child.

(E) For any placement made pursuant to this paragraph, AFDC-FC funding shall not be available until the home has been approved.

(F) Any child placed under this section shall be afforded all the rights set forth in Section 16001.9.

(f) The State Department of Social Services shall be responsible for all of the following:

(1) Selecting pilot counties, based on criteria established by the department in consultation with the County Welfare Directors Association.

(2) Establishing timeframes for participating counties to submit an implementation plan, enter into terms and conditions for participation in the pilot program, train appropriate staff, and accept applications from resource families.

(3) Entering into terms and conditions for participation in the pilot program by counties.

(4) Administering the pilot program through the issuance of written directives that shall have the same force and effect as regulations. Any directive affecting Article 1 (commencing with Section 700) of Chapter 7 of Title 11 of the California Code of Regulations shall be approved by the Department of Justice. The directives shall be exempt from the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340)) of Part 1 of Division 3 of Title 2 of the Government Code.

(5) Approving and requiring the use of a single standard for resource family home approval and permanency assessment.

(6) Adopting and requiring the use of standardized documentation for the home approval and permanency assessment of resource families.

(7) Requiring counties to monitor resource families including, but not limited to, all of the following:

(A) Investigating complaints of resource families.

(B) Developing and monitoring resource family corrective action plans to correct identified deficiencies and to rescind resource family approval if compliance with corrective action plans is not achieved.

(8) Ongoing oversight and monitoring of county systems and operations including all of the following:

(A) Reviewing the county's implementation of the pilot program.

(B) Reviewing an adequate number of approved resource families in each participating county to ensure that approval standards are being properly applied. The review shall include case file documentation, and may include onsite inspection of individual resource families. The review shall occur on an annual basis, and more frequently if the department becomes aware that a participating county is experiencing a disproportionate number of complaints against individual resource family homes.

(C) Reviewing county reports of serious complaints and incidents involving approved resource families, as determined necessary by the department. The department may conduct an independent review of the complaint or incident and change the findings depending on the results of its investigation.

(D) Investigating unresolved complaints against participating counties.

(E) Requiring corrective action of counties that are not in full compliance with the terms and conditions of the pilot program.

(9) Terminating the participation of any county that fails to make corrective action or who otherwise violates the terms and conditions of participation in the pilot program.

(10) Preparing or having prepared within 180 days after the conclusion of the pilot program, and submitting to the Legislature, a report on the results of the pilot program. The report shall include all of the following:

(A) An analysis, utilizing available data, of state and federal data indicators related to the length of time to permanency including reunification, guardianship and adoption, child safety factors, and placement stability.

(B) An analysis of resource family recruitment and retention elements, including resource family satisfaction with approval processes and changes regarding the population of available resource families.

(C) An analysis of cost, utilizing available data, including funding sources.

(D) An analysis of regulatory or statutory barriers to implementing the pilot program on a statewide basis.

(g) Counties participating in the pilot program shall be responsible for all of the following:

(1) Submitting an implementation plan, entering into terms and conditions for participation in the pilot program, consulting with the county probation department in the development of the implementation plan, training appropriate staff, and accepting applications from resource families within the timeframes established by the department.

(2) Complying with the written directives pursuant to paragraph (4) of subdivision (f).

(3) Implementing the requirements for resource family home approval and permanency assessment and utilizing standardized documentation established by the department.

(4) Ensuring staff have the education and experience necessary to complete the home approval and permanency assessment competently.

(5) Approving and denying resource family applications, including all of the following:

(A) Rescinding home approvals and resource family approvals where appropriate, consistent with the established standard.

(B) Providing disapproved resource families requesting review of that decision due process by conducting county grievance reviews pursuant to the department's regulations.

(C) Notifying the department of any decisions denying a resource family's application or rescinding the approval of a resource family.

(6) Updating resource family approval annually.

(7) Monitoring resource families through all of the following:

(A) Ensuring that social workers who identify a condition in the home that may not meet the approval standards set forth in subdivision (d) while in the course of a routine visit to children placed with a resource family take appropriate action as needed.

(B) Requiring resource families to comply with corrective action plans as necessary to correct identified deficiencies. If corrective action

is not completed as specified in the plan, the county may rescind the resource family approval.

(C) Requiring resource families to report to the county child welfare agency any incidents consistent with the reporting requirements for licensed foster family homes.

(8) Investigating all complaints against a resource family and taking action as necessary. This shall include investigating any incidents reported about a resource family indicating that the approval standard is not being maintained.

(A) The child's social worker shall not conduct the formal investigation into the complaint received concerning a family providing services under the standards required by subdivision (d). To the extent that adequate resources are available, complaints shall be investigated by a worker who did not initially perform the home approval or permanency assessment.

(B) Upon conclusion of the complaint investigation, the final disposition shall be reviewed and approved by a supervising staff member.

(C) The department shall be notified of any serious incidents or serious complaints or any incident that falls within the definition of Section 11165.5 of the Penal Code. If those incidents or complaints result in an investigation, the department shall also be notified as to the status and disposition of that investigation.

(9) Performing corrective action as required by the department.

(10) Assessing county performance in related areas of the California Child and Family Services Review System, and remedying problems identified.

(11) Submitting information and data that the department determines is necessary to study, monitor, and prepare the report specified in paragraph (10) of subdivision (f).

(h) Approved relatives and nonrelated extended family members, licensed foster family homes, or approved adoptive homes that have completed the license or approval process prior to full implementation of the pilot program shall not be considered part of the pilot program. The otherwise applicable assessment and oversight processes shall continue to be administered for families and facilities not included in the pilot program.

(i) Upon completion of the pilot program, the status of the resource family's approval shall continue in full force and effect, and the resource family shall be deemed approved for licensing, relative and nonrelated extended family member approval, guardianship, and adoption purposes.

(j) The department may waive regulations that pose a barrier to implementation and operation of this pilot program. The waiver of any

regulations by the department pursuant to this section shall apply to only those counties participating in the pilot program and only for the duration of the pilot program.

(k) Resource families approved under this pilot program, who move within a participating county or who move to another pilot program county, shall retain their resource family status if the new building and grounds, outdoor activity areas, and storage areas meet home approval standards. The State Department of Social Services or pilot county may allow a pilot program-affiliated individual to transfer his or her subsequent arrest notification if the individual moves from one pilot county to another pilot county, as specified in subdivision (h) of Section 1522 of the Health and Safety Code.

(*l*) (1) A resource family approved under this pilot program that moves to a nonparticipating pilot program county shall lose its status as a resource family. The new county of residence shall deem the family approved for licensing, relative and nonrelated extended family member approval, guardianship, and adoption purposes, under the following conditions:

(A) The new building and grounds, outdoor activity areas, and storage areas meet applicable standards, unless the family is subject to a corrective action plan.

(B) There has been a criminal records clearance of all adults residing in the home and exemptions granted, using the exemption criteria currently used for foster care licensing, as specified in subdivision (g) of Section 1522 of the Health and Safety Code.

(2) A program-affiliated individual who moves to a nonpilot county may not transfer his or her subsequent arrest notification from a pilot county to the nonpilot county.

(m) Implementation of the pilot program shall be contingent upon the continued availability of federal Social Security Act Title IV-E (42 U.S.C. Sec. 670) funds for costs associated with placement of children with resource families assessed and approved under the program.

(n) Notwithstanding Section 11402, a child placed with a resource family shall be eligible for AFDC-FC payments. A resource family shall be paid an AFDC-FC rate pursuant to Sections 11460 and 11461. Sharing ratios for nonfederal expenditures for all costs associated with activities related to the approval of relatives and nonrelated extended family members shall be in accordance with Section 10101.

(o) The Department of Justice shall charge fees sufficient to cover the cost of initial or subsequent criminal offender record information and Child Abuse Central Index searches, processing, or responses, as specified in this section.

(p) Approved resource families under this pilot program shall be exempt from all of the following:

(1) Licensure requirements set forth under the Community Care Facilities Act, commencing with Section 1500 of the Health and Safety Code and all regulations promulgated thereto.

(2) Relative and nonrelative extended family member approval requirements set forth under Sections 309, 361.4, and 362.7, and all regulations promulgated thereto.

(3) Adoptions approval and reporting requirements set forth under Section 8712 of the Family Code, and all regulations promulgated thereto.

(q) The pilot program shall be authorized to continue through the end of the 2010–11 fiscal year, or through the end of the third full fiscal year following the date that funds are made available for its implementation, whichever of these dates is later.

SEC. 4. Section 18260 of the Welfare and Institutions Code is amended to read:

18260. (a) The department may conduct a demonstration project in up to 20 counties, to allow flexible use of federal and state foster care funds by utilizing a federal capped allocation model over a five-year period, based on the terms and conditions of the federal Title IV-E waiver. Participation shall be at the option of each county, subject to state approval, provided that each county has entered into a memorandum of understanding (MOU) with the department, as described in subdivision (c). The department shall not be required to conduct any demonstration projects under this section if no county elects to participate. It is the intent of the Legislature that this project will improve outcomes or safety for children, and that the state shall provide immediate assistance, as needed, if the department finds that children's health, safety, or well-being has declined, or is at risk of declining, as a result of a county's participation in the project.

(b) The department is authorized to conduct the demonstration project in order to provide participating counties with flexibility in their use of state and federal foster care maintenance and administrative funds that were previously restricted to payment for the care and supervision of children in out-of-home placements and administrative expenditures. Any county, state, or federal savings in the foster care program that occur as a result of the demonstration project shall be reinvested by the counties in child welfare services program improvements. These foster care savings will support the counties in developing a broader and more responsive array of services that will contribute to improved outcomes for children and families. Any unexpended state and federal funds may be retained by each county for expenditure in subsequent fiscal years for purposes consistent with this section.

(c) The department shall work with county welfare directors and other stakeholders to develop the terms and conditions of the MOU. The MOU shall incorporate the terms and conditions of the federal approval of the use of federal funds for the demonstration project, additional conditions as described in this section, and provisions deemed by the department and counties as reasonably necessary to fulfill the purpose of the demonstration project and to ensure compliance with its conditions and with this section. Provisions of the MOU shall include, but shall not be limited to, all of the following:

(1) The MOU shall specify the time periods for the county's participation in the demonstration project, and shall set forth procedures for the county to opt out of participation in the demonstration project. A county electing to opt out of the demonstration project shall provide written notice to the department of its intent to do so in accordance with the MOU.

(2) The county is responsible for ensuring that adequate funds are available to protect children at risk of abuse and neglect, by out-of-home placement or otherwise, until funds are appropriated to the county through the Budget Act, including provisional language in the Budget Act that authorizes midyear funding adjustments, for this purpose.

(3) The MOU shall specify the allocation methodology for the capped amount of federal funds that will be allocated to the county for the demonstration project, as well as the county's share of cost.

(4) The MOU shall specify the methodology for the provision of state General Fund resources that a county shall receive under the waiver and the liability for the county and the state for costs in excess of the capped federal amount.

(d) The county and state share of costs for the demonstration project shall be determined notwithstanding Sections 15200 and 10100.

SEC. 5. No appropriation for purposes of Section 15200 of the Welfare and Institutions Code shall be made for purposes of funding this act.

CHAPTER 465

An act to add Section 13757 to the Welfare and Institutions Code, relating to foster youth.

[Approved by Governor October 11, 2007. Filed with Secretary of State October 11, 2007.]

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) When compared to youth without disabilities, foster youth with disabilities are more likely to be institutionalized, to lack sufficient education, and to have higher incidences of homelessness and mental health problems following discharge from foster care.

(b) Key to transition planning for disabled foster youth is ensuring that qualified youth are approved for all benefits, most importantly federal Supplemental Security Income (SSI) benefits, and that they are able to accumulate some level of savings to aid in their transition to independent living.

(c) Foster youth with disabilities gain significant advantages at the time of emancipation if their eligibility for SSI benefits has been established prior to their emancipation.

(d) Unfortunately, federal law and regulations prohibit a child who receives a federally funded AFDC-FC benefit in excess of the federal SSI benefits from applying for SSI until the month prior to the federal AFDC-FC benefits ending. In order to apply for SSI benefits, a child may not be receiving federally funded AFDC-FC benefits in the month of application or, depending on the timing of the application, the month after the application is filed. After the application for SSI benefits is accepted by the Social Security Administration, federal rules indicate that the child may receive federally funded AFDC-FC benefits during the remainder of the application process. Upon approval for SSI benefits, these benefits may be suspended for up to 12 months, during which time a child may receive federally funded AFDC-FC benefits without losing eligibility for SSI benefits. Using this flexibility will allow for applications to be made on behalf of federally eligible youth who are nearing emancipation from foster care.

SEC. 2. Section 13757 is added to the Welfare and Institutions Code, to read:

13757. (a) (1) Subject to paragraph (2), every youth who is in foster care and nearing emancipation shall be screened by the county for potential eligibility for the federal Supplemental Security Income (SSI) program utilizing the best practice guidelines developed pursuant to Section 13752.

(2) The screening required in paragraph (1) shall only occur when the foster youth is at least 16 years and six months of age and not older than 17 years and six months of age. An application shall be submitted to the federal Social Security Administration on behalf of a youth who is screened as being likely to be eligible for federal Supplemental Security Income benefits. To the extent possible, the application shall be timed

to allow for a determination of eligibility by the Social Security Administration prior to the youth's emancipation from care including, if appropriate, the suspension of Supplemental Security Income benefits for no more than 12 months.

(b) In carrying out the requirements of subdivision (a) for a youth receiving federally funded AFDC-FC benefits, the county shall, if necessary, forego federally funded AFDC-FC and instead use state AFDC-FC resources to fund the placement in the month of application or in the month after making an application, and to subsequently reclaim federally funded AFDC-FC, in order to ensure that the youth meets all of the SSI eligibility requirements in a single month while the application is pending, as provided by federal law and regulation. Notwithstanding subdivision (a) of Section 11402, this section shall apply to a foster youth regardless of his or her federal AFDC-FC eligibility.

(c) Prior to the implementation of subdivision (b), the State Department of Social Services shall obtain clarification from the Social Security Administration and the United States Department of Health and Human Services by January 1, 2008, that the funding mechanism described in subdivision (b) is consistent with federal law and regulation.

SEC. 3. No appropriation pursuant to Section 15200 of the Welfare and Institutions Code shall be made for the purposes of funding this act.

SEC. 4. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

CHAPTER 466

An act to add Chapter 12.87 (commencing with Section 18987.7) to Part 6 of Division 9 of the Welfare and Institutions Code, relating to foster care.

[Approved by Governor October 11, 2007. Filed with Secretary of State October 11, 2007.]

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares as follows:

(a) There is general dissatisfaction with how foster care group homes are currently used in California's child welfare, juvenile justice, and mental health systems. This concern is shared by the state, county placing

agencies, the courts, group home providers, children's advocates, and, most importantly, by foster youth and their families.

(b) Under current state law, the role of foster care group homes is not well-defined and outcomes to be achieved for children placed in group homes are poorly articulated. State laws and regulations governing community care licensing and Aid to Families with Dependent Children-Foster Care (AFDC-FC) funding for group homes have not been updated to keep pace with the evolving expectations of the child welfare, juvenile justice, and mental health systems, particularly the new emphasis on finding and providing support for permanent family placements for all foster children before they emancipate to adulthood.

(c) The current AFDC-FC program neither authorizes nor funds group homes to provide services that may be needed by families to achieve reunification, or, when reunification is not possible, to prepare and support relatives or another family willing to provide a permanent home. As a result, many foster children remain in group homes longer than would otherwise be necessary, or they are discharged to another foster care setting without achieving a stable and permanent family living situation.

(d) A comprehensive reform proposal was developed by a broad-based group of stakeholders convened in 2005, titled "Framework for a New System for Residentially-Based Services in California." The recommendations in that document would lead to the transformation of California's current system of foster care group homes into a system of "residentially based services" designed to improve outcomes for foster children by enhancing the quality and scope of care and services provided with the specific objective of expediting a permanent family placement.

(e) The State Department of Social Services has committed to continue to collaborate with stakeholders to achieve fundamental reforms in group care based on the recommendations included in the framework document. However, this is a complex task, which could take two or more years to complete.

(f) There are some counties and private nonprofit agencies operating group home programs that are interested in moving forward now to develop, implement, and test alternative program designs and funding models based on recommendations in the framework document. These counties and provider agencies will not be able to implement reform projects unless they are able to obtain a variety of waivers and approvals which the State Department of Social Services does not now have the authority to grant.

(g) It is the intent of the Legislature in enacting this act to ensure that the State Department of Social Services has the authority necessary to approve voluntary agreements entered into by counties and private

nonprofit agencies for the purpose of testing alternative program design and funding models for transforming existing group home programs into residentially based services programs.

SEC. 2. Chapter 12.87 (commencing with Section 18987.7) is added to Part 6 of Division 9 of the Welfare and Institutions Code, to read:

Chapter 12.87. Reform of Residentially Based Services for Children and Youth

18987.7. (a) The State Department of Social Services shall convene a workgroup of public and private nonprofit stakeholders that shall develop a plan for transforming the current system of group care for foster children or youth, and for children with serious emotional disorders (SED), into a system of residentially based services. The stakeholders may include, but not be limited to, representatives of the department and of the State Department of Mental Health, the State Department of Education, the State Department of Alcohol and Drug Programs, and the Department of Corrections and Rehabilitation; county child welfare, probation, mental health, and alcohol and drug programs; local education authorities; current and former foster youth, parents of foster children or youth, and children or youth with SED; private nonprofit agencies operating group homes; children's advocates; and other interested parties.

(b) The plan developed pursuant to this chapter shall utilize the reports delivered to the Legislature pursuant to Section 75 of Chapter 311 of the Statutes of 1998 by the Steering Committee for the Reexamination of the Role of Group Care in a Family-Based System of Care in June 2001 and August 2002, and the "Framework for a New System for Residentially-Based Services in California" published in March 2006.

(c) In the development, implementation, and subsequent revisions of the plan developed pursuant to subdivision (a), the knowledge and experience gained by counties and private nonprofit agencies through the operation of their residentially based services programs created under voluntary agreements made pursuant to Section 18987.72, including, but not limited to, the results of evaluations prepared pursuant to paragraph (3) of subdivision (b) of Section 18987.72 shall be utilized.

(d) By January 1, 2011, the department shall provide a copy of the plan developed by the workgroup pursuant to subdivision (a) to the Legislature. The plan shall include, in addition to other requirements set forth in this chapter, any statutory revisions necessary for its implementation.

18987.71. For purposes of this chapter, the following terms shall have the following meanings:

(a) (1) "Residentially based services" means behavioral or therapeutic interventions delivered in nondetention group care settings in which multiple children or youth live in the same housing unit and receive care and supervision from paid staff. Residentially based services are most effectively used as intensive, short-term interventions when children have unmet needs that create conditions that render them or those around them unsafe, or that prevent the effective delivery of needed services and supports provided in the children's own homes or in other family settings, such as with a relative, guardian, foster family, or adoptive family.

(2) "Residentially based services" shall include the following interventions and services:

(A) Environmental interventions that establish a safe, stable, and structured living situation in which children or youth can receive the comfort, attention, structure, and guidance needed to help them reduce the intensity of conditions that led to their placement in the program, so that their caregivers can identify and address the factors creating those conditions.

(B) Intensive treatment interventions that facilitate the rapid movement of children or youth toward connection or reconnection with appropriate and natural home, school, and community ecologies, by helping them and their families find ways to mitigate the conditions that led to their placement in the program with positive and productive alternatives.

(C) Parallel, predischarge, community-based interventions that help family members and other people in the social ecologies that children and youth will be joining or rejoining, to prepare for connection or reconnection. These preparations should be initiated upon placement and proceed apace with the environmental interventions being provided within the residential setting.

(D) Followup postdischarge support and services, consistent with the child's case plan, provided as needed after children or youth have exited the residential component and returned to their own family or to another family living situation, in order to ensure the stability and success of the connection or reconnection with home, school, and community.

(b) "County" means a county that enters into a voluntary agreement with a private nonprofit agency to test alternative program designs and funding models pursuant to this chapter, and may include a consortia or consortium of counties.

18987.72. (a) In order to obtain knowledge and experience with which to inform the process of developing and implementing the plan for residentially based services, required by Section 18987.7, the department shall encourage counties and private nonprofit agencies to develop voluntary agreements to test alternative program design and

funding models for transforming existing group home programs into residentially based services programs in order to meet the diverse needs of children or youth and families in the child welfare, juvenile justice, and mental health systems.

(b) (1) With the approval of the department, any counties participating in the federal Title IV-E waiver capped allocation demonstration project pursuant to Section 18260, at their option, and two other counties may enter into and implement voluntary agreements with private nonprofit agencies to transform all or part of an existing group home program into a residentially based services program.

(2) If one or more counties participating in the federal Title IV-E waiver capped allocation demonstration project opts not to enter into a voluntary agreement pursuant to this chapter, the department may select one or more nonwaiver counties. The department may approve up to four counties to participate in the voluntary agreements pursuant to this section.

(3) The department shall select participating counties, based on letters of interest submitted to the department from counties, in consultation with the California Alliance of Child and Family Services and the County Welfare Directors Association.

(c) Voluntary agreements by counties and nonprofit agencies shall satisfy all of the following requirements:

(1) Incorporate and address all of the components and elements for residentially based services described in the "Framework for a New System for Residentially-Based Services in California."

(2) Reflect active collaboration among the private nonprofit agency that will operate the residentially based services program and county departments of social services, mental health, or juvenile justice, alcohol and drug programs, county offices of education, or other public entities, as appropriate, to ensure that children, youth, and families receive the services and support necessary to meet their needs.

(3) Provide for an annual evaluation report, to be prepared jointly by the county and the private nonprofit agency. The evaluation report shall include analyses of the outcomes for children and youth, including achievement of permanency, average lengths of stay, and rates of entry and reentry into group care. The evaluation report shall also include analyses of the involvement of children or youth and their families, client satisfaction, the use of the program by the county, the operation of the program by the private nonprofit agency, payments made to the private nonprofit agency by the county, actual costs incurred by the nonprofit agency for the operation of the program, and the impact of the program on state and county AFDC-FC program costs. The county shall send a

copy of each annual evaluation report to the director, and the director shall make these reports available to the Legislature upon request.

(4) Permit amendments, modifications, and extensions of the agreement to be made, with the mutual consent of both parties and with approval of the department, based on the evaluations described in paragraph (3), and on the experience and information acquired from the implementation and the ongoing operation of the program.

(5) Be consistent with the county's system improvement plan developed pursuant to the California Child Welfare Outcomes and Accountability System.

(d) (1) Upon a county's request, the director may waive child welfare regulations regarding the role of counties in conjunction with private nonprofit agencies operating residentially based services programs to enhance the development and implementation of case plans and the delivery of services in order to enable a county and a private nonprofit agency to implement an agreement described in subdivision (b). Nothing in this section shall be construed to supersede the requirements set forth in subdivision (c) of Section 16501.

(2) Notwithstanding Sections 11460 and 11462, or any other law or regulation governing payments under the AFDC-FC program, upon the request of one or more counties, and in accordance with the voluntary agreements as described in subdivision (b), the director may also approve the use of up to a total of five alternative funding models for determining the method and level of payments that will be made under the AFDC-FC program to private nonprofit agencies operating residentially based services programs in lieu of using the rate classification levels and schedule of standard rates provided for in Section 11462. These alternative funding models may include, but shall not be limited to, the use of cost reimbursement, case rates, per diem or monthly rates, or a combination thereof. An alternative funding model shall do all of the following:

(A) Support the values and goals for residentially based services, including active child and family involvement, permanence, collaborative decisionmaking, and outcome measurement.

(B) Ensure that quality care and effective services are delivered to appropriate children or youth at a reasonable cost to the public.

(C) Ensure that payment levels are sufficient to permit the private nonprofit agencies operating residentially based services programs to provide care and supervision, social work activities, parallel predischarge community-based interventions for families, and followup postdischarge support and services for children and their families, including the cost of hiring and retaining qualified staff.

(D) Facilitate compliance with state requirements and the attainment of federal and state performance objectives.

(E) Control overall program costs by providing incentives for the private nonprofit agencies to use the most cost-effective approaches for achieving positive outcomes for the children or youth and their families.

(F) Facilitate the ability of the private nonprofit agencies to access other available public sources of funding and services to meet the needs of the children or youth placed in their residentially based services programs, and the needs of their families.

(G) Enable the combination of various funding streams necessary to meet the full range of services needed by foster children or youth in residentially based services programs, with particular reference to funding for mental health treatment services through the Medi-Cal Early and Periodic Screening, Diagnosis, and Treatment program.

(H) Maximize federal financial participation, and mitigate the loss of federal funds, while ensuring the effective delivery of services to children or youth and families, and the achievement of positive outcomes.

(I) Provide for effective administrative oversight and enforcement mechanisms in order to ensure programmatic and fiscal accountability.

(3) A waiver granted by the director pursuant to paragraph (1), or an approval of an alternative funding model pursuant to paragraph (2), shall be applicable only to the development, implementation, and ongoing operation of a residentially based services program and related county activities provided under the terms of the agreement and for the duration of the agreement, and shall be granted only when all of the following apply:

(A) The agreement promises to offer a worthwhile test related to the development, implementation, and ongoing operation of a residentially based services program as described in this chapter.

(B) Existing regulatory provisions or the existing AFDC-FC payment requirements, or both, impose barriers for the effective, efficient, and timely implementation of the agreement.

(C) The requesting county proposes to monitor the agreement for compliance with the terms of the waiver or the alternative funding model, or both.

(D) Neither the waiver nor the alternative funding model will result in an increase in the costs to the General Fund for payments under the AFDC-FC program, measured on an annual basis. This would permit higher AFDC-FC payments to be made when children or youth are initially placed in a residentially based services program, with savings to offset these higher costs being achieved through shorter lengths of stay in foster care, or a reduction of reentries into foster care, as the result

of providing predischarge support and postdischarge services to the children or youth and their families.

(e) In addition to the requirements set forth in subdivision (c), the voluntary agreements shall do all of the following:

(1) Provide that, to the extent that some of the care, services, and other activities associated with a residentially based services program operated under an agreement described in subdivision (b) are not eligible for federal financial participation as foster care maintenance payments under Part E (commencing with Section 470) of Title IV of the federal Social Security Act (42 U.S.C. Sec. 670 et seq.), but may be eligible for federal financial participation as administration or training, or may be eligible for federal financial participation under other programs, including, but not limited to, Title XIX of the federal Social Security Act (42 U.S.C. Sec. 1396 et seq.), the appropriate state departments shall take measures to obtain that federal funding.

(2) Provide that, prior to approving any waiver or alternative funding model pursuant to subdivision (d), the director shall make a determination that the design of the residentially based services program to be operated under the agreement described in subdivision (b) would ensure the health and safety of children or youth to be served.

(f) Agreements entered into pursuant to this section shall be valid for a period not to exceed five years from January 1, 2008, unless a later enacted statute extends or removes this limitation.

(g) The department shall report during the legislative budget hearings on the status of any county agreements entered into pursuant to subdivision (b), and on the development of statewide residentially based services programs.

CHAPTER 467

An act to add Section 14093.10 to the Welfare and Institutions Code, relating to Medi-Cal.

[Approved by Governor October 11, 2007. Filed with Secretary of State October 11, 2007.]

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) Children and adolescents in foster care suffer serious health, emotional, and developmental problems. As a group, they suffer higher

rates of serious physical or psychological problems than other children from the same socioeconomic backgrounds.

(b) Given their overwhelming and complex needs, foster children require and use health services more than other children do. A high percentage of foster children require ongoing medical treatment.

(c) Foster children from counties that use a county organized health system as their Medi-Cal managed care plan model face particular barriers to health care when they need to be disenrolled from the county organized health system due to an out-of-county placement.

(d) When a county has a county organized health system, Medi-Cal recipients in that county, including foster children, must receive their Medi-Cal services from a provider in the county organized health system's network.

(e) Foster children currently are unable to disenroll from a county organized health system in a timely manner following their placement in a different county. Until they are disenrolled from the county organized health system, they cannot be enrolled in a health care plan serving their new county of residence.

(f) The inability to effect timely disenrollment from county organized health systems interferes with foster children's access to routine medical care, including some nonemergency mental health services, and prescription medications. It also can create a barrier to dental care when dental care providers mistakenly deny services to foster children due to their continued enrollment in the county organized health system in their previous county of residence. Lack of access to medical services jeopardizes not only foster children's health but also their placement.

(g) This barrier to health care for foster children has existed since the county organized health system model was created. It was addressed in the March 1998 report by the Institute for Research on Women and Families entitled "Code Blue: Health Services for Children in Foster Care." Despite the passage of nearly a decade since that report was published, the barrier has not been removed.

(h) Eight counties currently have county organized health systems: Monterey, Napa, Orange, San Mateo, Santa Barbara, Santa Cruz, Solano, and Yolo. As of July 1, 2006, 28 percent of child welfare-supervised foster children from county organized health system counties, nearly 1,700 children, were placed out of the county. Recent data regarding probation-supervised foster children are not available.

(i) In recent years, other counties have expressed interest in adopting the county organized health system model, and there has been a proposal to expand existing county organized health systems to include other counties, including Lake, Marin, Mendocino, San Benito, San Luis Obispo, Sonoma, and Ventura.

SEC. 2. Section 14093.10 is added to the Welfare and Institutions Code, to read:

14093.10. (a) Whenever a foster child enrolled in a county organized health system, established pursuant to Article 2.8 (commencing with Section 14087.5), is placed in an out-of-county placement, the county child welfare agency or probation department with responsibility for the care and placement of the child shall determine, in consultation with the child's foster caregiver, whether the child should remain enrolled in that county organized health system. The determination shall be made no later than one working day after the out-of-county placement begins.

(b) If it is determined, pursuant to subdivision (a) or at any later date, that a foster child should be disenrolled from a county organized health system due to an out-of-county placement, the county child welfare agency or probation department with responsibility for the care and placement of the child shall request that the child be disenrolled from the county organized health system. The request shall be made to the entity designated by the State Department of Health Care Services to receive requests for disenrollment or to the department, if the department has no designee, no later than one working day after either of the following occurs:

(1) The out-of-county placement begins.

(2) It is determined that a child who initially remained enrolled in the county organized health system following the out-of-county placement, pursuant to subdivision (a), should subsequently be disenrolled.

(c) The State Department of Health Care Services shall, in consultation with other agencies and organizations interested in health care access for foster children, establish for county organized health systems urgent disenrollment procedures that provide for disenrollment of foster children in out-of-county placements within two working days of receipt by the department's designee or by the department, if the department has no designee, of a request for disenrollment made by the county child welfare services agency, the county probation department, the foster caregiver, or any other person authorized to make medical decisions on behalf of the foster child.

(d) The department shall issue all-county letters or similar instructions to implement subdivision (c) no later than January 1, 2009, and thereafter shall adopt any necessary implementing regulations.

SEC. 3. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7

(commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

CHAPTER 468

An act to amend Section 827 of, and to add Sections 826.7 and 10850.4 to, the Welfare and Institutions Code, relating to child abuse and neglect.

[Approved by Governor October 11, 2007. Filed with Secretary of State October 11, 2007.]

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares the following:

(a) During 2002, approximately 140 children in California were officially reported as having died as a result of abuse or neglect. The State Death Review Council has concluded that official reports of child abuse deaths represent a significant undercount of the actual number of child abuse and neglect fatalities.

(b) A child's death from abuse or neglect often leads to calls for reform of the public child protection system. Without accurate and complete information about the circumstances leading to the child's death, public debate is stymied and the reforms, if adopted at all, may do little to prevent further tragedies.

(c) Providing public access to juvenile case files in cases where a child fatality occurs as a result of abuse or neglect will promote public scrutiny and an informed debate of the circumstances that led to the fatality thereby promoting the development of child protection policies, procedures, practices, and strategies that will reduce or avoid future child deaths and injuries.

(d) The current procedures for accessing information about a child's death from abuse or neglect are costly, at times resulting in lengthy delays in the release of that information, fail to provide adequate guidance for what information should and should not be disclosed, and permit significant variation from one jurisdiction to another in the nature and extent of the information released.

(e) Thus, it is the intent of the Legislature to maximize public access to juvenile case files in cases where a child fatality occurs as a result of child abuse or neglect by both providing for an administrative release of certain documents without the filing of a legal petition pursuant to paragraph (2) of subdivision (a) of Section 827 of the Welfare and Institutions Code, while also ensuring that basic privacy protections are

consistently afforded, and by enacting reforms to the current process of filing a petition pursuant to paragraph (2) of subdivision (a) of Section 827 of the Welfare and Institutions Code that will offer clarifying guidance to juvenile courts of the legal standards that apply to those petitions and an expedited process for their disposition.

(f) In petitions governed by paragraph (2) of subdivision (a) of Section 827 of the Welfare and Institutions Code, the Legislature has concluded that when a dependent child dies within the jurisdiction of the juvenile court, the presumption of confidentiality for juvenile case files evaporates and the requirement of an expedited decision becomes manifest, because community reaction to the child's death may abate with the passage of time and, without a prompt investigation and assessment, the opportunity to effect positive change may be lost.

SEC. 2. Section 826.7 is added to the Welfare and Institutions Code, to read:

826.7. Juvenile case files that pertain to a child who died as the result of abuse or neglect shall be released by the custodian of records of the county welfare department or agency to the public pursuant to Section 10850.4 or an order issued pursuant to paragraph (2) of subdivision (a) of Section 827.

SEC. 3. Section 827 of the Welfare and Institutions Code is amended to read:

827. (a) (1) Except as provided in Section 828, a case file may be inspected only by the following:

(A) Court personnel.

(B) The district attorney, a city attorney, or city prosecutor authorized to prosecute criminal or juvenile cases under state law.

(C) The minor who is the subject of the proceeding.

(D) The minor's parents or guardian.

(E) The attorneys for the parties, judges, referees, other hearing officers, probation officers, and law enforcement officers who are actively participating in criminal or juvenile proceedings involving the minor.

(F) The county counsel, city attorney, or any other attorney representing the petitioning agency in a dependency action.

(G) The superintendent or designee of the school district where the minor is enrolled or attending school.

(H) Members of the child protective agencies as defined in Section 11165.9 of the Penal Code.

(I) The State Department of Social Services, to carry out its duties pursuant to Division 9 (commencing with Section 10000), and Part 5 (commencing with Section 7900) of Division 12, of the Family Code to oversee and monitor county child welfare agencies, children in foster

care or receiving foster care assistance, and out-of-state placements, Section 10850.4, and paragraph (2).

(J) Authorized legal staff or special investigators who are peace officers who are employed by, or who are authorized representatives of, the State Department of Social Services, as necessary to the performance of their duties to inspect, license, and investigate community care facilities, and to ensure that the standards of care and services provided in those facilities are adequate and appropriate and to ascertain compliance with the rules and regulations to which the facilities are subject. The confidential information shall remain confidential except for purposes of inspection, licensing, or investigation pursuant to Chapter 3 (commencing with Section 1500) and Chapter 3.4 (commencing with Section 1596.70) of Division 2 of the Health and Safety Code, or a criminal, civil, or administrative proceeding in relation thereto. The confidential information may be used by the State Department of Social Services in a criminal, civil, or administrative proceeding. The confidential information shall be available only to the judge or hearing officer and to the parties to the case. Names that are confidential shall be listed in attachments separate to the general pleadings. The confidential information shall be sealed after the conclusion of the criminal, civil, or administrative hearings, and may not subsequently be released except in accordance with this subdivision. If the confidential information does not result in a criminal, civil, or administrative proceeding, it shall be sealed after the State Department of Social Services decides that no further action will be taken in the matter of suspected licensing violations. Except as otherwise provided in this subdivision, confidential information in the possession of the State Department of Social Services may not contain the name of the minor.

(K) Members of children's multidisciplinary teams, persons, or agencies providing treatment or supervision of the minor.

(L) A judge, commissioner, or other hearing officer assigned to a family law case with issues concerning custody or visitation, or both, involving the minor, and the following persons, if actively participating in the family law case: a family court mediator assigned to a case involving the minor pursuant to Article 1 (commencing with Section 3160) of Chapter 11 of Part 2 of Division 8 of the Family Code, a court-appointed evaluator or a person conducting a court-connected child custody evaluation, investigation, or assessment pursuant to Section 3111 or 3118 of the Family Code, and counsel appointed for the minor in the family law case pursuant to Section 3150 of the Family Code. Prior to allowing counsel appointed for the minor in the family law case to inspect the file, the court clerk may require counsel to provide a

certified copy of the court order appointing him or her as the minor's counsel.

(M) A court-appointed investigator who is actively participating in a guardianship case involving a minor pursuant to Part 2 (commencing with Section 1500) of Division 4 of the Probate Code and acting within the scope of his or her duties in that case.

(N) A local child support agency for the purpose of establishing paternity and establishing and enforcing child support orders.

(O) Juvenile justice commissions as established under Section 225. The confidentiality provisions of Section 10850 shall apply to a juvenile justice commission and its members.

(P) Any other person who may be designated by court order of the judge of the juvenile court upon filing a petition.

(2) (A) Notwithstanding any other law and subject to subparagraph (A) of paragraph (3), juvenile case files, except those relating to matters within the jurisdiction of the court pursuant to Section 601 or 602, that pertain to a deceased child who was within the jurisdiction of the juvenile court pursuant to Section 300, shall be released to the public pursuant to an order by the juvenile court after a petition has been filed and interested parties have been afforded an opportunity to file an objection. Any information relating to another child or which could identify another child, except for information about the deceased, shall be redacted from the juvenile case file prior to release, unless a specific order is made by the juvenile court to the contrary. Except as provided in this paragraph, the presiding judge of the juvenile court may issue an order prohibiting or limiting access to the juvenile case file, or any portion thereof, of a deceased child only upon a showing by a preponderance of evidence that release of the juvenile case file or any portion thereof is detrimental to the safety, protection, or physical or emotional well-being of another child who is directly or indirectly connected to the juvenile case that is the subject of the petition.

(B) This paragraph represents a presumption in favor of the release of documents when a child is deceased unless the statutory reasons for confidentiality are shown to exist.

(C) If a child whose records are sought has died, and documents are sought pursuant to this paragraph, no weighing or balancing of the interests of those other than a child is permitted.

(D) A petition filed under this paragraph shall be served on interested parties by the petitioner, if the petitioner is in possession of their identity and address, and on the custodian of records. Upon receiving a petition, the custodian of records shall serve a copy of the request upon all interested parties that have not been served by the petitioner or on the interested parties served by the petitioner if the custodian of records

possesses information, such as a more recent address, indicating that the service by the petitioner may have been ineffective.

(E) The custodian of records shall serve the petition within 10 calendar days of receipt. If any interested party, including the custodian of records, objects to the petition, the party shall file and serve the objection on the petitioning party no later than 15 calendar days of service of the petition.

(F) The petitioning party shall have 10 calendar days to file any reply. The juvenile court shall set the matter for hearing no more than 60 calendar days from the date the petition is served on the custodian of records. The court shall render its decision within 30 days of the hearing. The matter shall be decided solely upon the basis of the petition and supporting exhibits and declarations, if any, the objection and any supporting exhibits or declarations, if any, and the reply and any supporting declarations or exhibits thereto, and argument at hearing. The court may solely upon its own motion order the appearance of witnesses. If no objection is filed to the petition, the court shall review the petition and issue its decision within 10 calendar days of the final day for filing the objection. Any order of the court shall be immediately reviewable by petition to the appellate court for the issuance of an extraordinary writ.

(3) Access to juvenile case files pertaining to matters within the jurisdiction of the juvenile court pursuant to Section 300 shall be limited as follows:

(A) If a juvenile case file, or any portion thereof, is privileged or confidential pursuant to any other state law or federal law or regulation, the requirements of that state law or federal law or regulation prohibiting or limiting release of the juvenile case file or any portions thereof shall prevail. Unless a person is listed in subparagraphs (A) to (O), inclusive, of paragraph (1) and is entitled to access under the other state law or federal law or regulation without a court order, all those seeking access, pursuant to other authorization, to portions of, or information relating to the contents of, juvenile case files protected under another state law or federal law or regulation, shall petition the juvenile court. The juvenile court may only release the portion of, or information relating to the contents of, juvenile case files protected by another state law or federal law or regulation if disclosure is not detrimental to the safety, protection, or physical or emotional well-being of a child who is directly or indirectly connected to the juvenile case that is the subject of the petition. This paragraph shall not be construed to limit the ability of the juvenile court to carry out its duties in conducting juvenile court proceedings.

(B) Prior to the release of the juvenile case file or any portion thereof, the court shall afford due process, including a notice of and an

opportunity to file an objection to the release of the record or report to all interested parties.

(4) A juvenile case file, any portion thereof, and information relating to the content of the juvenile case file, may not be disseminated by the receiving agencies to any persons or agencies, other than those persons or agencies authorized to receive documents pursuant to this section. Further, a juvenile case file, any portion thereof, and information relating to the content of the juvenile case file, may not be made as an attachment to any other documents without the prior approval of the presiding judge of the juvenile court, unless it is used in connection with and in the course of a criminal investigation or a proceeding brought to declare a person a dependent child or ward of the juvenile court.

(5) Individuals listed in subparagraphs (A), (B), (C), (D), (E), (F), (H), and (I) of paragraph (1) may also receive copies of the case file. In these circumstances, the requirements of paragraph (4) shall continue to apply to the information received.

(b) (1) While the Legislature reaffirms its belief that juvenile court records, in general, should be confidential, it is the intent of the Legislature in enacting this subdivision to provide for a limited exception to juvenile court record confidentiality to promote more effective communication among juvenile courts, family courts, law enforcement agencies, and schools to ensure the rehabilitation of juvenile criminal offenders as well as to lessen the potential for drug use, violence, other forms of delinquency, and child abuse.

(2) Notwithstanding subdivision (a), written notice that a minor enrolled in a public school, kindergarten to grade 12, inclusive, has been found by a court of competent jurisdiction to have committed any felony or any misdemeanor involving curfew, gambling, alcohol, drugs, tobacco products, carrying of weapons, a sex offense listed in Section 290 of the Penal Code, assault or battery, larceny, vandalism, or graffiti shall be provided by the court, within seven days, to the superintendent of the school district of attendance. Written notice shall include only the offense found to have been committed by the minor and the disposition of the minor's case. This notice shall be expeditiously transmitted by the district superintendent to the principal at the school of attendance. The principal shall expeditiously disseminate the information to those counselors directly supervising or reporting on the behavior or progress of the minor. In addition, the principal shall disseminate the information to any teacher or administrator directly supervising or reporting on the behavior or progress of the minor whom the principal believes needs the information to work with the pupil in an appropriate fashion, to avoid being needlessly vulnerable or to protect other persons from needless vulnerability.

Any information received by a teacher, counselor, or administrator under this subdivision shall be received in confidence for the limited purpose of rehabilitating the minor and protecting students and staff, and shall not be further disseminated by the teacher, counselor, or administrator, except insofar as communication with the juvenile, his or her parents or guardians, law enforcement personnel, and the juvenile's probation officer is necessary to effectuate the juvenile's rehabilitation or to protect students and staff.

An intentional violation of the confidentiality provisions of this paragraph is a misdemeanor punishable by a fine not to exceed five hundred dollars ($500).

(3) If a minor is removed from public school as a result of the court's finding described in subdivision (b), the superintendent shall maintain the information in a confidential file and shall defer transmittal of the information received from the court until the minor is returned to public school. If the minor is returned to a school district other than the one from which the minor came, the parole or probation officer having jurisdiction over the minor shall so notify the superintendent of the last district of attendance, who shall transmit the notice received from the court to the superintendent of the new district of attendance.

(c) Each probation report filed with the court concerning a minor whose record is subject to dissemination pursuant to subdivision (b) shall include on the face sheet the school at which the minor is currently enrolled. The county superintendent shall provide the court with a listing of all of the schools within each school district, within the county, along with the name and mailing address of each district superintendent.

(d) Each notice sent by the court pursuant to subdivision (b) shall be stamped with the instruction: "Unlawful Dissemination Of This Information Is A Misdemeanor." Any information received from the court shall be kept in a separate confidential file at the school of attendance and shall be transferred to the minor's subsequent schools of attendance and maintained until the minor graduates from high school, is released from juvenile court jurisdiction, or reaches the age of 18 years, whichever occurs first. After that time the confidential record shall be destroyed. At any time after the date by which a record required to be destroyed by this section should have been destroyed, the minor or his or her parent or guardian shall have the right to make a written request to the principal of the school that the minor's school records be reviewed to ensure that the record has been destroyed. Upon completion of any requested review and no later than 30 days after the request for the review was received, the principal or his or her designee shall respond in writing to the written request and either shall confirm that the record

has been destroyed or, if the record has not been destroyed, shall explain why destruction has not yet occurred.

Except as provided in paragraph (2) of subdivision (b), no liability shall attach to any person who transmits or fails to transmit any notice or information required under subdivision (b).

(e) For purposes of this section, a "juvenile case file" means a petition filed in any juvenile court proceeding, reports of the probation officer, and all other documents filed in that case or made available to the probation officer in making his or her report, or to the judge, referee, or other hearing officer, and thereafter retained by the probation officer, judge, referee, or other hearing officer.

SEC. 4. Section 10850.4 is added to the Welfare and Institutions Code, to read:

10850.4. (a) Within five business days of learning that a child fatality has occurred in the county and that there is a reasonable suspicion that the fatality was caused by abuse or neglect, the custodian of records for the county child welfare agency, upon request, shall release the following information:

(1) The age and gender of the child.

(2) The date of death.

(3) Whether the child was in foster care or in the home of his or her parent or guardian at the time of death.

(4) Whether an investigation is being conducted by a law enforcement agency or the county child welfare agency.

(b) All cases in which abuse or neglect leads to a child's death shall be subject to the disclosures required in subdivision (c). Abuse or neglect is determined to have led to a child's death if one or more of the following conditions are met:

(1) A county child protective services agency determines that the abuse or neglect was substantiated.

(2) A law enforcement investigation concludes that abuse or neglect occurred.

(3) A coroner or medical examiner concludes that the child who died had suffered abuse or neglect.

(c) Upon completion of the child abuse or neglect investigation into the child's death, as described in subdivision (b), the following documents from the juvenile case file shall be released by the custodian of records upon request, subject to the redactions set forth in subdivision (e):

(1) All of the information in subdivision (a).

(2) For cases in which the child's death occurred while living with a parent or guardian, all previous referrals of abuse or neglect of the deceased child while living with that parent or guardian shall be disclosed along with the following documents:

(A) The emergency response referral information form and the emergency response notice of referral disposition form completed by the county child welfare agency relating to the abuse or neglect that caused the death of the child.

(B) Any cross reports completed by the county child welfare agency to law enforcement relating to the deceased child.

(C) All risk and safety assessments completed by the county child welfare services agency relating to the deceased child.

(D) All health care records of the deceased child, excluding mental health records, related to the child's death and previous injuries reflective of a pattern of abuse or neglect.

(E) Copies of police reports about the person against whom the child abuse or neglect was substantiated.

(3) For cases in which the child's death occurred while the child was in foster care, the following documents in addition to those specified in paragraphs (1) and (2) generated while the child was living in the foster care placement that was the placement at the time of the child's death:

(A) Records pertaining to the foster parents' initial licensing and renewals and type of license or licenses held, if in the case file.

(B) All reported licensing violations, including notices of action, if in the case file.

(C) Records of the training completed by the foster parents, if in the case file.

(d) The documents listed in subdivision (c) shall be released to the public by the custodian of records within 10 business days of the request or the disposition of the investigation, whichever is later.

(e) (1) Prior to releasing any document pursuant to subdivision (c), the custodian of records shall redact the following information:

(A) The names, addresses, telephone numbers, ethnicity, religion, or any other identifying information of any person or institution, other than the county or the State Department of Social Services, that is mentioned in the documents listed in paragraphs (2) and (3) of subdivision (c).

(B) Any information that would, after consultation with the district attorney, jeopardize a criminal investigation or proceeding.

(C) Any information that is privileged, confidential, or not subject to disclosure pursuant to any other state or federal law.

(2) (A) The State Department of Social Services shall promulgate a regulation listing the laws described in subparagraph (C) of paragraph (1) and setting forth standards governing redactions.

(B) Notwithstanding the rulemaking provisions of the Administrative Procedures Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), until emergency regulations are filed with the Secretary of State, the State Department

of Social Services may implement the changes made to Section 827 and this section at the 2007–08 Regular Session of the Legislature through all county letters or similar instructions from the director. The department shall adopt as emergency regulations, as necessary to implement those changes, no later than January 1, 2009.

(C) The adoption of regulations pursuant to this paragraph shall be deemed to be an emergency necessary for the immediate preservation of the public peace, health, safety, or general welfare. The emergency regulations authorized by this section shall be exempt from review by the Office of Administrative Law. The emergency regulations authorized by this section shall be submitted for filing with the Secretary of State and shall remain in effect for no more than 180 days, by which time the final regulations shall be adopted.

(f) Upon receiving a request for the documents listed in subdivision (c), the custodian of records shall notify and provide a copy of the request upon counsel for any child who is directly or indirectly connected to the juvenile case file. If counsel for a child, including the deceased child or any sibling of the deceased child, objects to the release of any part of the documents listed in paragraphs (2) and (3) of subdivision (c), they may petition the juvenile court for relief to prevent the release of any document or part of a document requested pursuant to paragraph (2) of subdivision (a) of Section 827.

(g) Documents from the juvenile case file, other than those listed in paragraphs (2) and (3) of subdivision (c), shall only be disclosed upon an order by the juvenile court pursuant to Section 827.

(h) Once documents pursuant to this section have been released by the custodian of records, the State Department of Social Services or the county welfare department or agency may comment on the case within the scope of the release.

(i) Information released by a custodian of records consistent with the requirements of this section does not require prior notice to any other individual.

(j) Each county welfare department or agency shall notify the State Department of Social Services of every child fatality that occurred within its jurisdiction that was the result of child abuse or neglect. Based on these notices and any other relevant information in the State Department of Social Services' possession, the department shall annually issue a report identifying the child fatalities and any systemic issues or patterns revealed by the notices and other relevant information. The State Department of Social Services, after consultation with interested stakeholders, shall provide instructions by an all county letter regarding the procedure for notification.

(k) For purposes of this section, the following definitions apply:

(1) "Child abuse or neglect" has the same meaning as defined in Section 11165.6 of the Penal Code.

(2) "Custodian of records," for the purposes of this section and paragraph (2) of subdivision (a) of Section 827, means the county welfare department or agency.

(3) "Juvenile case files" or "case files" include any juvenile court files, as defined in Rule 5.552 of the California Rules of Court, and any county child welfare department or agency or State Department of Social Services records regardless of whether they are maintained electronically or in paper form.

(4) "Substantiated" has the same meaning as defined in Section 11165.12 of the Penal Code.

(*l*) A person disclosing juvenile case file information as required by this section shall not be subject to suit in civil or criminal proceedings for complying with the requirements of this section.

(m) This section shall apply only to deaths that occur on or after January 1, 2008.

(n) Nothing in this section shall require a custodian of records to retain documents beyond any date otherwise required by law.

(o) Nothing in this section shall be construed as requiring a custodian of records to obtain documents not in the case file.

SEC. 5. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

CHAPTER 469

An act to add Sections 5777.7, 11376, and 16125 to the Welfare and Institutions Code, relating to public social services.

[Approved by Governor October 11, 2007. Filed with Secretary of State October 11, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 5777.7 is added to the Welfare and Institutions Code, to read:

5777.7. (a) In order to facilitate the receipt of medically necessary specialty mental health services by a foster child who is placed outside

of his or her county of original jurisdiction, the State Department of Mental Health shall take all of the following actions:

(1) On or before July 1, 2008, create all of the following items, in consultation with stakeholders, including, but not limited to, the California Institute of Mental Health, the Child and Family Policy Institute, the California Mental Health Directors Association, and the California Alliance of Child and Family Services:

(A) A standardized contract for the purchase of medically necessary specialty mental health services from organizational providers, when a contract is required.

(B) A standardized specialty mental health service authorization procedure.

(C) A standardized set of documentation standards and forms, including, but not limited to, forms for treatment plans, annual treatment plan updates, day treatment intensive and day treatment rehabilitative progress notes, and treatment authorization requests.

(2) On or before January 1, 2009, use the standardized items as described in paragraph (1) of subdivision (a) to provide medically necessary specialty mental health services to a foster child who is placed outside of his or her county of original jurisdiction, so that organizational providers who are already certified by a mental health plan are not required to be additionally certified by the mental health plan in the county of original jurisdiction.

(3) (A) On or before January 1, 2009, use the standardized items described in paragraph (1) of subdivision (a) to provide medically necessary specialty mental health services to a foster child placed outside of his or her county of original jurisdiction to constitute a complete contract, authorization procedure, and set of documentation standards and forms, so that no additional documents are required.

(B) Authorize a county mental health plan to be exempt from subparagraph (A) and have an addendum to a contract, authorization procedure, or set of documentation standards and forms, when the county mental health plan has an externally placed requirement, such as a requirement from a federal integrity agreement, that would affect one of these documents.

(4) Following consultation with stakeholders, including, but not limited to, the California Institute of Mental Health, the Child and Family Policy Institute, the California Mental Health Directors Association, the California State Association of Counties, and the California Alliance of Child and Family Services, require the use of the standardized contracts, authorization procedures, and documentation standards and forms as specified in paragraph (1) of subdivision (a) in the 2008–09 state-county

mental health plan contract and each state-county mental health plan contract thereafter.

(5) The mental health plan shall complete a standardized contract, as provided in paragraph (1) of subdivision (a), if a contract is required, or another mechanism of payment if a contract is not required, with a provider or providers of the county's choice, to deliver approved specialty mental health services for a specified foster child, within 30 days of an approved Treatment Authorization Request (TAR).

(b) The California Health and Human Services Agency shall coordinate the efforts of the State Department of Mental Health and the State Department of Social Services to do all of the following:

(1) Participate with the stakeholders in the activities described in this section.

(2) During budget hearings in 2008 and 2009, report to the Legislature regarding the implementation of this section and subdivision (c) of Section 5777.6.

(3) On or before July 1, 2008, establish the following, in consultation with stakeholders, including, but not limited to, the California Mental Health Directors Association, the California Alliance of Child and Family Services, and the County Welfare Directors Association:

(A) Informational materials that explain to foster care providers how to arrange for mental health services on behalf of the beneficiary in their care.

(B) Informational materials that county child welfare agencies can access relevant to the provision of services to children in their care from the out-of-county local mental health plan that is responsible for providing those services, including, but not limited to, receiving a copy of the child's treatment plan within 60 days after requesting services.

(C) It is the intent of the Legislature to ensure that foster children who are adopted or placed permanently with relative guardians, and who move to a county outside their original county of residence, can access mental health services in a timely manner. It is the intent of the Legislature to enact this section as a temporary means of ensuring access to these services, while the appropriate stakeholders pursue a long-term solution in the form of a change to the Medi-Cal Eligibility Data System (MEDS) that will allow these children to receive mental health services through their new county of residence.

SEC. 2. Section 11376 is added to the Welfare and Institutions Code, to read:

11376. A foster child who has become the subject of a legal guardianship, who is receiving assistance under the Kin-Gap Program, including Medi-Cal, and whose foster care court supervision has been terminated, shall be provided medically necessary specialty mental health

services by the local mental health plan in the county of residence of his or her legal guardian, pursuant to all of the following:

(a) The host county mental health plan shall be responsible for submitting the treatment authorization request (TAR) to the mental health plan in the county of origin.

(b) The requesting public or private service provider shall prepare the TAR.

(c) The county of origin shall retain responsibility for authorization and reauthorization of services utilizing an expedited TAR process.

SEC. 3. Section 16125 is added to the Welfare and Institutions Code, to read:

16125. A foster child whose adoption has become final, who is receiving or is eligible to receive Adoption Assistance Program assistance, including Medi-Cal, and whose foster care court supervision has been terminated, shall be provided medically necessary specialty mental health services by the local mental health plan in the county of residence of his or her adoptive parents, pursuant to all of the following:

(a) The host county mental health plan shall be responsible for submitting the treatment authorization request (TAR) to the mental health plan in the county of origin.

(b) The requesting public or private service provider shall prepare the TAR.

(c) The county of origin shall retain responsibility for authorization and reauthorization of services utilizing an expedited TAR process.

SEC. 4. (a) If the State Department of Mental Health determines it is necessary, the department shall seek approval under the state's Section 1915(b) Medicaid waiver from the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) prior to implementation of this act.

(b) The department shall make the determination of the necessity to secure CMS approval and, should approval be deemed necessary, shall make the official request for approval from CMS by July 1, 2008, and shall do all that is necessary within its power to secure an expeditious approval from CMS.

(c) The department shall not be required to implement any section of this act that is determined by CMS not to be permitted under the state's waiver.

SEC. 5. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7

(commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

CHAPTER 470

An act to add Section 4076.5 to the Business and Professions Code, relating to pharmacy.

[Approved by Governor October 11, 2007. Filed with Secretary of State October 11, 2007.]

The people of the State of California do enact as follows:

SECTION 1. This act shall be known and may be cited as the California Patient Medication Safety Act.

SEC. 2. The Legislature hereby finds and declares all of the following:

(a) Health care costs and spending in California are rising dramatically and are expected to continue to increase.

(b) In California, prescription drug spending totaled over $188 billion in 2004, a $14 billion dollar per year spending increase from 1984.

(c) Prescription drug cost continues to be among the most significant cost factors in California's overall spending on health care.

(d) According to the Institute of Medicine of the National Academies, medication errors are among the most common medical errors, harming at least 1.5 million people every year.

(e) Up to one-half of all medications are taken incorrectly or mixed with other medications that cause dangerous reactions that can lead to injury and death.

(f) Approximately 46 percent of American adults cannot understand the label on their prescription medications.

(g) Ninety percent of Medicare patients take medications for chronic conditions and nearly one-half of them take five or more different medications.

(h) Nearly six out of 10 adults in the United States have taken prescription medications incorrectly.

(i) The people of California recognize the importance of reducing medication-related errors and increasing health care literacy regarding prescription drugs and prescription container labeling, which can increase consumer protection and improve the health, safety, and well-being of consumers.

(j) The Legislature affirms the importance of identifying deficiencies in, and opportunities for improving, patient medication safety systems in order to identify and encourage the adoption of structural safeguards related to prescription drug container labels.

(k) It is the intent of the Legislature to adopt a standardized prescription drug label that will be designed by the California State Board of Pharmacy for use on any prescription drug dispensed to a patient in California.

SEC. 3. Section 4076.5 is added to the Business and Professions Code, to read:

4076.5. (a) The board shall promulgate regulations that require, on or before January 1, 2011, a standardized, patient-centered, prescription drug label on all prescription medicine dispensed to patients in California.

(b) To ensure maximum public comment, the board shall hold public meetings statewide that are separate from its normally scheduled hearings in order to seek information from groups representing consumers, seniors, pharmacists or the practice of pharmacy, other health care professionals, and other interested parties.

(c) When developing the requirements for prescription drug labels, the board shall consider all of the following factors:

(1) Medical literacy research that points to increased understandability of labels.

(2) Improved directions for use.

(3) Improved font types and sizes.

(4) Placement of information that is patient-centered.

(5) The needs of patients with limited English proficiency.

(6) The needs of senior citizens.

(7) Technology requirements necessary to implement the standards.

(d) (1) On or before January 1, 2010, the board shall report to the Legislature on its progress under this section as of the time of the report.

(2) On or before January 1, 2013, the board shall report to the Legislature the status of implementation of the prescription drug label requirements adopted pursuant to this section.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CHAPTER 471

An act to amend Sections 17250.20, 17250.30, 17250.35, 81700, 81702, and 81704 of, and to repeal Sections 81700.5 and 81700.7 of, the Education Code, to amend Section 4 of Chapter 421 of the Statutes of 2001, and to amend Section 4 of Chapter 637 of the Statutes of 2002, relating to public works.

[Approved by Governor October 11, 2007. Filed with Secretary of State October 11, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 17250.20 of the Education Code is amended to read:

17250.20. Upon making a determination by a school district governing board that it is in the best interest of the school district, the governing board may enter into a design-build contract for both the design and construction of a school facility if that expenditure exceeds two million five hundred thousand dollars ($2,500,000) if, after evaluation of the traditional design, bid, and build process of school construction and of the design-build process in a public meeting, the governing board makes written findings that use of the design-build process on the specific project under consideration will accomplish one of the following objectives: reduce comparable project costs, expedite the project's completion, or provide features not achievable through the traditional design-bid-build method. The governing board also shall review the guidelines developed pursuant to Section 17250.40 and shall adopt a resolution approving the use of a design-build contract pursuant to this chapter prior to entering into a design-build contract.

SEC. 2. Section 17250.30 of the Education Code is amended to read:

17250.30. (a) Any design-build entity that is selected to design and build a project pursuant to this chapter shall possess or obtain sufficient bonding to cover the contract amount for nondesign services, and errors and omissions insurance coverage sufficient to cover all design and architectural services provided in the contract. This chapter does not prohibit a general or engineering contractor from being designated the lead entity on a design-build entity for the purposes of purchasing necessary bonding to cover the activities of the design-build entity.

(b) Any payment or performance bond written for the purposes of this chapter shall use a bond form developed by the Department of General Services pursuant to subdivision (g) of Section 14661 of the Government Code. The purpose of this subdivision is to promote

uniformity of bond forms to be used on school district design-build projects throughout the state.

(c) (1) All subcontracts that were not listed by the design-build entity in accordance with Section 17250.25 shall be awarded by the design-build entity.

(2) The design-build entity shall do all of the following:

(A) Provide public notice of the availability of work to be subcontracted.

(B) Provide a fixed date and time on which the subcontracted work will be awarded.

(3) Subcontractors bidding on contracts pursuant to this subdivision shall be afforded the protections contained in Chapter 4 (commencing with Section 4100) of Part 1 of Division 2 of the Public Contract Code.

(4) (A) If the school district elects to award a project pursuant to this section, retention proceeds withheld by the school district from the design-build entity shall not exceed 5 percent if a performance and payment bond, issued by an admitted surety insurer, is required in the solicitation of bids.

(B) In a contract between the design-build entity and a subcontractor, and in a contract between a subcontractor and any subcontractor thereunder, the percentage of the retention proceeds withheld shall not exceed the percentage specified in the contract between the school district and the design-build entity. If the design-build entity provides written notice to any subcontractor who is not a member of the design-build entity, prior to or at the time the bid is requested, that a bond may be required and the subcontractor subsequently is unable or refuses to furnish a bond to the design-build entity, then the design-build entity may withhold retention proceeds in excess of the percentage specified in the contract between the school district and the design-build entity from any payment made by the design-build entity to the subcontractor.

(5) In accordance with the provisions of applicable state law, the design-build entity may be permitted to substitute securities in lieu of the withholding from progress payments. Substitutions shall be made in accordance with Section 22300 of the Public Contract Code.

(d) The school district shall establish and enforce a labor compliance program containing the requirements outlined in Section 1771.5 of the Labor Code or shall contract with a third party to operate a labor compliance program containing the requirements outlined in Section 1771.5 of the Labor Code. This requirement shall not apply to projects where the school district or the design-build entity has entered into a collective bargaining agreement that binds all of the contractors performing work on the project.

SEC. 3. Section 17250.35 of the Education Code is amended to read:

17250.35. (a) The minimum performance criteria and design standards established pursuant to this chapter by a school district for quality, durability, longevity, and life-cycle costs, and other criteria deemed appropriate by the school district shall be adhered to by the design-build entity. Any deviations from those standards may only be allowed by written consent of the school district. The governing board may, and is strongly encouraged to, retain the services of an architect or structural engineer throughout the course of the project in order to ensure compliance with this chapter. Any architect or structural engineer retained pursuant to this subdivision shall be duly licensed and registered in California.

(b) The school district governing board shall be the employer of the project inspector. The project inspector shall be fully independent from any member of the design-build entity and shall not have an affiliation with any member of the design-build entity or any of the project subcontractors. The project inspector shall act under the direction of either the Director of General Services or a competent, qualified agent of the school district.

(c) The total price of the project shall be determined either upon receipt of the lump-sum bids as set forth in paragraph (1) of subdivision (c) of Section 17250.25, or by completion of the process pursuant to paragraph (2) of subdivision (c) of Section 17250.25.

(d) (1) Each contract with a design-build entity shall provide that no construction or alteration of any school building pursuant to this section shall commence prior to the receipt of the written approval of the plans, as to the safety of design and construction, from the Department of General Services.

(2) For purposes of this subdivision, "plans" includes, but is not limited to, plans for foundations or other building systems based on design criteria provided by the architect or structural engineer of the design-build entity to the Department of General Services prior to the receipt of completed building plans. For purposes of this paragraph, "other building systems" are building systems determined by the Division of the State Architect.

(3) Compliance with paragraph (1) shall be deemed to be in compliance with Sections 17267 and 17297.

(e) The design-build entity shall be liable for building the facility to specifications set forth in the design-build contract in the absence of contractual language to the contrary.

SEC. 4. Section 81700 of the Education Code is amended to read:

81700. (a) It is the intent of the Legislature to enable community college districts to utilize safe and cost-effective options for building and modernizing community college facilities. The Legislature has

recognized the merits of the design-build procurement process in the past by authorizing its use for projects undertaken by the University of California, specified local government projects, including school districts, and state office buildings.

(b) The Legislature also finds and declares that community college districts utilizing a design-build contract require a clear understanding of the roles and responsibilities of each participant in the design-build process. The benefits of a design-build contract project delivery system include an accelerated completion of the projects, cost containment, reduction of construction complexity, and reduced exposure to risk for the community college district. The Legislature also finds that the cost-effective benefits to the community college districts are achieved by shifting the liability and risk for cost containment and project completion to the design-build entity.

(c) It is the intent of the Legislature to provide an optional, alternative procedure for bidding and building community college construction projects.

(d) In addition, it is the intent of the Legislature that the full scope of design, construction, and equipment awarded to a design-build entity under this chapter shall be authorized in a single funding phase. The funding phase may be authorized concurrently with, or separately from, the phase that authorizes the creation of the performance criteria and concept drawings.

(e) It is the intent of the Legislature that design-build procurement as authorized by this chapter shall not be construed to extend, limit, or change in any manner the legal responsibility of public agencies and contractors to comply with existing laws.

SEC. 5. Section 81700.5 of the Education Code is repealed.

SEC. 6. Section 81700.7 of the Education Code is repealed.

SEC. 7. Section 81702 of the Education Code is amended to read:

81702. (a) Upon a determination by a community college district governing board that it is in the best interest of the community college district, the governing board may enter into a design-build contract for both the design and construction of a community college facility if that expenditure exceeds two million five hundred thousand dollars ($2,500,000) if, after evaluation of the traditional design, bid, and build process of community college facility construction and of the design-build process in a public meeting, the governing board makes written findings that use of the design-build process on the specific project under consideration will accomplish one of the following objectives: reduce comparable project costs, expedite the project's completion, or provide features not achievable through the traditional design-bid-build method. The governing board shall also review the

guidelines developed pursuant to Section 81706 and shall adopt a resolution approving the use of a design-build contract pursuant to this chapter prior to entering into a design-build contract.

(b) No state funds appropriated for a design-build capital outlay project may be expended until the Department of Finance and the State Public Works Board have approved performance criteria, or performance criteria and concept drawings, for the project to be financed from the appropriation for capital outlay.

SEC. 8. Section 81704 of the Education Code is amended to read:

81704. (a) Any design-build entity that is selected to design and build a project pursuant to this chapter shall possess or obtain sufficient bonding to cover the contract amount for nondesign services, and errors and omission insurance coverage sufficient to cover all design and architectural services provided in the contract. This chapter does not prohibit a general or engineering contractor from being designated the lead entity on a design-build entity for the purposes of purchasing necessary bonding to cover the activities of the design-build entity.

(b) Any payment or performance bond written for the purposes of this chapter shall use a bond form developed by the Department of General Services pursuant to subdivision (i) of Section 14661 of the Government Code. The purpose of this subdivision is to promote uniformity of bond forms to be used on community college district design-build projects throughout the state.

(c) (1) All subcontracts that were not listed by the design-build entity in accordance with Section 81703 shall be awarded by the design-build entity in accordance with the design-build process set forth by the community college district in the design-build package.

(2) The design-build entity shall do all of the following:

(A) Provide public notice of the availability of work to be subcontracted.

(B) Provide a fixed date and time on which the subcontracted work will be awarded.

(3) Subcontractors bidding on contracts pursuant to this subdivision shall be afforded the protections contained in Chapter 4 (commencing with Section 4100) of Part 1 of Division 2 of the Public Contract Code.

(4) (A) If the community college district elects to award a project pursuant to this section, retention proceeds withheld by the community college district from the design-build entity shall not exceed 5 percent if a performance and payment bond, issued by an admitted surety insurer, is required in the solicitation of bids.

(B) In a contract between the design-build entity and a subcontractor, and in a contract between a subcontractor and any subcontractor thereunder, the percentage of the retention proceeds withheld may not

exceed the percentage specified in the contract between the community college district and the design-build entity. If the design-build entity provides written notice to any subcontractor who is not a member of the design-build entity, prior to or at the time the bid is requested, that a bond may be required and the subcontractor subsequently is unable or refuses to furnish a bond to the design-build entity, then the design-build entity may withhold retention proceeds in excess of the percentage specified in the contract between the community college district and the design-build entity from any payment made by the design-build entity to the subcontractor.

(5) In accordance with the provisions of applicable state law, the design-build entity may be permitted to substitute securities in lieu of the withholding from progress payments. Substitutions shall be made in accordance with Section 22300 of the Public Contract Code.

(d) The community college district shall establish and enforce a labor compliance program containing the requirements outlined in Section 1771.5 of the Labor Code or shall contract with a third party to operate a labor compliance program containing the requirements outlined in Section 1771.5 of the Labor Code. This requirement shall not apply to projects where the community college district or the design-build entity has entered into a collective bargaining agreement that binds all of the contractors performing work on the project.

SEC. 9. Section 4 of Chapter 421 of the Statutes of 2001, as amended by Section 18 of Chapter 35 of the Statutes of 2006, is amended to read:

Sec. 4. This act shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

SEC. 10. Section 4 of Chapter 637 of the Statutes of 2002, as amended by Section 19 of Chapter 35 of the Statutes of 2006, is amended to read:

Sec. 4. This act shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

SEC. 11. Except as provided in this act, nothing in this act shall be construed to affect the application of any other law.

CHAPTER 472

An act to amend Section 1262.5 of the Health and Safety Code, relating to persons with disabilities.

[Approved by Governor October 11, 2007. Filed with
Secretary of State October 11, 2007.]

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) On June 22, 1999, the United States Supreme Court issued a decision in the case of Olmstead v. L.C., finding that the unjustified institutional isolation of people with disabilities and seniors is a violation of the Americans with Disabilities Act (ADA).

(b) The court found that under certain circumstances, regulations implementing Title II of the ADA require the placement of persons with disabilities and seniors in community settings rather than institutions.

(c) The decision challenged federal, state, and local governments to develop cost-effective community-based services to prevent or delay institutionalization.

(d) Unnecessary institutional placement, such as nursing homes, state hospitals, and other nonhome-like settings, of individuals with disabilities and seniors adversely affects the everyday life activities, family relations, social contacts, work options, economic independence, and cultural enrichment of those institutionalized persons.

(e) The state has a responsibility to protect against the unnecessary institutionalization of individuals with disabilities and seniors.

(f) The opportunity to direct one's own affairs, live independently, and attain economic self-sufficiency is an essential component of developing self-worth and personal responsibility.

(g) Direction has been provided to states under the Americans with Disabilities Act and the United States Supreme Court's decision in Olmstead v. L.C..

(h) Community-based care and services can be more cost effective than institutional care, and result in a higher quality of life that promotes the values of community participation, inclusiveness, and respect for diversity.

(i) The active involvement of people with disabilities and seniors and their representatives in the development and implementation of activities designed to move people into, or allow them to remain in, community-based settings is critical to ensuring effective strategies.

(j) California has demonstrated only a mediocre record of success in providing services that support the full integration of persons with disabilities and seniors in community life.

(k) It is possible to build upon California's previous success to improve procedures and implement new tools that will enable more people to fully access their communities.

SEC. 2. (a) The state affirms its commitment to provide services to people with disabilities and seniors in the most integrated setting, and to adopt and adhere to policies and practices that make it possible for persons with disabilities and seniors to remain in their communities and avoid unnecessary institutionalization.

(b) It is the intent of this act to make proven case management services that help disabled persons and seniors who would otherwise be placed in an institutional setting, including, but not limited to, a nursing home, remain in their own homes or communities, available to all consumers who qualify for those services.

SEC. 3. Section 1262.5 of the Health and Safety Code is amended to read:

1262.5. (a) Each hospital shall have a written discharge planning policy and process.

(b) The policy required by subdivision (a) shall require that appropriate arrangements for posthospital care, including, but not limited to, care at home, in a skilled nursing or intermediate care facility, or from a hospice, are made prior to discharge for those patients who are likely to suffer adverse health consequences upon discharge if there is no adequate discharge planning. If the hospital determines that the patient and family members or interested persons need to be counseled to prepare them for posthospital care, the hospital shall provide for that counseling.

(c) The process required by subdivision (a) shall require that the patient be informed, orally or in writing, of the continuing health care requirements following discharge from the hospital. The right to information regarding continuing health care requirements following discharge shall apply to the person who has legal responsibility to make decisions regarding medical care on behalf of the patient, if the patient is unable to make those decisions for himself or herself. In addition, a patient may request that friends or family members be given this information, even if the patient is able to make his or her own decisions regarding medical care.

(d) (1) A transfer summary shall accompany the patient upon transfer to a skilled nursing or intermediate care facility or to the distinct part-skilled nursing or intermediate care service unit of the hospital. The transfer summary shall include essential information relative to the patient's diagnosis, hospital course, pain treatment and management, medications, treatments, dietary requirement, rehabilitation potential, known allergies, and treatment plan, and shall be signed by the physician.

(2) A copy of the transfer summary shall be given to the patient and the patient's legal representative, if any, prior to transfer to a skilled nursing or intermediate care facility.

(e) A hospital shall establish and implement a written policy to ensure that each patient receives, at the time of discharge, information regarding each medication dispensed, pursuant to Section 4074 of the Business and Professions Code.

(f) A hospital shall provide every patient anticipated to be in need of long-term care at the time of discharge with contact information for at least one public or nonprofit agency or organization dedicated to providing information or referral services relating to community-based long-term care options in the patient's county of residence and appropriate to the needs and characteristics of the patient. At a minimum, this information shall include contact information for the area agency on aging serving the patient's county of residence, local independent living centers, or other information appropriate to the needs and characteristics of the patient.

(g) A contract between a general acute care hospital and a health care service plan that is issued, amended, renewed, or delivered on or after January 1, 2002, may not contain a provision that prohibits or restricts any health care facility's compliance with the requirements of this section.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CHAPTER 473

An act to amend Section 20175.2 of, and to add and repeal Section 20785 of, the Public Contract Code, relating to public contracts.

[Approved by Governor October 11, 2007. Filed with Secretary of State October 11, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 20175.2 of the Public Contract Code is amended to read:

20175.2. (a) (1) This section provides an alternative procedure for bidding on building construction projects applicable in cities in the

Counties of Solano and Yolo and the Cities of Stanton and Victorville upon approval of the appropriate city council.

(2) These cities may award the project using either the lowest responsible bidder or by best value.

(b) (1) It is the intent of the Legislature to enable cities to utilize cost-effective options for building and modernizing public facilities. The Legislature also recognizes the national trend, including authorization in California, to allow public entities to utilize design-build contracts as a project delivery method. It is not the intent of the Legislature to authorize this procedure for transportation facilities, including, but not limited to, roads and bridges.

(2) The Legislature also finds and declares that utilizing a design-build contract requires a clear understanding of the roles and responsibilities of each participant in the design-build process. The Legislature also finds that the cost-effective benefits to cities are achieved by shifting the liability and risk for cost containment and project completion to the design-build entity.

(3) It is the intent of the Legislature to provide an alternative and optional procedure for bidding and building construction projects for cities.

(4) The design-build approach may be used, but is not limited to use, when it is anticipated that it will: reduce project cost, expedite project completion, or provide design features not achievable through the design-bid-build method.

(5) If a city council elects to proceed under this section, the city council shall establish and enforce, for design-build projects, a labor compliance program containing the requirements outlined in Section 1771.5 of the Labor Code, or it shall contract with a third party to operate a labor compliance program containing the requirements outlined in Section 1771.5 of the Labor Code. This requirement shall not apply to any project where the city or the design-build entity has entered into any collective bargaining agreement or agreements that bind all of the contractors performing work on the projects.

(c) As used in this section:

(1) "Best value" means a value determined by objectives relative to price, features, functions, and life cycle costs.

(2) "Design-build" means a procurement process in which both the design and construction of a project are procured from a single entity.

(3) "Design-build entity" means a partnership, corporation, or other legal entity that is able to provide appropriately licensed contracting, architectural, and engineering services, as needed, pursuant to a design-build contract.

(4) "Project" means the construction of a building and improvements directly related to the construction of a building, but does not include streets and highways, public rail transit, or water resources facilities and infrastructure.

(d) Design-build projects shall progress in a four-step process, as follows:

(1) (A) The city shall prepare a set of documents setting forth the scope of the project. The documents may include, but are not limited to, the size, type, and desired design character of the buildings and site, performance specifications covering the quality of materials, equipment, and workmanship, preliminary plans or building layouts, or any other information deemed necessary to describe adequately the city's needs. The performance specifications and any plans shall be prepared by a design professional who is duly licensed and registered in California.

(B) Any architect or engineer retained by the city to assist in the development of the project-specific documents shall not be eligible to participate in the preparation of a bid with any design-build entity for that project.

(2) (A) Based on the documents prepared in paragraph (1), the city shall prepare a request for proposals that invites interested parties to submit competitive sealed proposals in the manner prescribed by the city. The request for proposals shall include, but is not limited to, the following elements:

(i) Identification of the basic scope and needs of the project or contract, the expected cost range, and other information deemed necessary by the city to inform interested parties of the contracting opportunity, to include the methodology that will be used by the city to evaluate proposals, and specifically if the contract will be awarded to the lowest responsible bidder.

(ii) Significant factors which the city reasonably expects to consider in evaluating proposals, including cost or price and all nonprice related factors.

(iii) The relative importance of weight assigned to each of the factors identified in the request for proposals.

(B) With respect to clause (iii) of subparagraph (A), if a nonweighted system is used, the agency shall specifically disclose whether all evaluation factors, other than cost or price, when combined are:

(i) Significantly more important than cost or price.

(ii) Approximately equal in importance to cost or price.

(iii) Significantly less important than cost or price.

(C) If the city chooses to reserve the right to hold discussions or negotiations with responsive bidders, it shall so specify in the request for proposal and shall publish separately, or incorporate into the request

for proposal, applicable rules and procedures to be observed by the city to ensure that any discussions or negotiations are conducted in good faith.

(3) (A) The city shall establish a procedure to prequalify design-build entities using a standard questionnaire developed by the city. In preparing the questionnaire, the city shall consult with the construction industry, including representatives of the building trades and surety industry. This questionnaire shall require information including, but not limited to, all of the following:

(i) If the design-build entity is a partnership, limited partnership, or other association, a listing of all of the partners, general partners, or association members known at the time of bid submission who will participate in the design-build contract, including, but not limited to, mechanical subcontractors.

(ii) Evidence that the members of the design-build entity have completed, or demonstrated the experience, competency, capability, and capacity to complete projects of similar size, scope, or complexity, and that proposed key personnel have sufficient experience and training to competently manage and complete the design and construction of the project, as well as a financial statement that assures the city that the design-build entity has the capacity to complete the project.

(iii) The licenses, registration, and credentials required to design and construct the project, including information on the revocation or suspension of any license, credential, or registration.

(iv) Evidence that establishes that the design-build entity has the capacity to obtain all required payment and performance bonding, liability insurance, and errors and omissions insurance.

(v) Any prior serious or willful violation of the California Occupational Safety and Health Act of 1973, contained in Part 1 (commencing with Section 6300) of Division 5 of the Labor Code or the federal Occupational Safety and Health Act of 1970 (Public Law 91–596) settled against any member of the design-build entity, and information concerning workers' compensation experience history and worker safety program.

(vi) Information concerning any debarment, disqualification, or removal from a federal, state, or local government public works project. Any instance where an entity, its owners, officers, or managing employees submitted a bid on a public works project and were found to be nonresponsive, or were found by an awarding body not to be a responsible bidder.

(vii) Any instance where the entity, its owners, officers, or managing employees defaulted on a construction contract.

(viii) Any violations of the Contractors' State License Law (Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code), excluding alleged violations of federal or state law including the payment of wages, benefits, apprenticeship requirements, or personal income tax withholding, or of Federal Insurance Contribution Act (FICA) withholding requirements settled against any member of the design-build entity.

(ix) Information concerning the bankruptcy or receivership of any member of the design-build entity, including information concerning any work completed by a surety.

(x) Information concerning all settled adverse claims, disputes, or lawsuits between the owner of a public works project and any member of the design-build entity during the five years preceding submission of a bid pursuant to this section, in which the claim, settlement, or judgment exceeds fifty thousand dollars ($50,000). Information shall also be provided concerning any work completed by a surety during this period.

(xi) In the case of a partnership or other association that is not a legal entity, a copy of the agreement creating the partnership or association and specifying that all partners or association members agree to be fully liable for the performance under the design-build contract.

(B) The information required pursuant to this subdivision shall be verified under oath by the entity and its members in the manner in which civil pleadings in civil actions are verified. Information that is not a public record pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) shall not be open to public inspection.

(4) The city shall establish a procedure for final selection of the design-build entity. Selection shall be based on either of the following criteria:

(A) A competitive bidding process resulting in lump-sum bids by the prequalified design-build entities. Awards shall be made to the lowest responsible bidder.

(B) The city may use a design-build competition based upon best value and other criteria set forth in paragraph (2) of subdivision (d). The design-build competition shall include the following elements:

(i) Competitive proposals shall be evaluated by using only the criteria and selection procedures specifically identified in the request for proposal. However, the following minimum factors shall each represent at least 10 percent of the total weight of consideration given to all criteria factors: price, technical design and construction expertise, life cycle costs over 15 years or more, skilled labor force availability, and acceptable safety record. Each of these factors shall be weighted equally.

(ii) Once the evaluation is complete, the top three responsive bidders shall be ranked sequentially from the most advantageous to the least.

(iii) The award of the contract shall be made to the responsible bidder whose proposal is determined, in writing, to be the most advantageous.

(iv) Notwithstanding any provision of this code, upon issuance of a contract award, the city shall publicly announce its award, identifying the contractor to whom the award is made, along with a written decision supporting its contract award and stating the basis of the award. The notice of award shall also include the city's second and third ranked design-build entities.

(v) For the purposes of this paragraph, "skilled labor force availability" shall be determined by the existence of an agreement with a registered apprenticeship program, approved by the California Apprenticeship Council, which has graduated apprentices in each of the preceding five years. This graduation requirement shall not apply to programs providing apprenticeship training for any craft that has been deemed by the Department of Labor and the Department of Industrial Relations to be an apprenticeable craft in the five years prior to enactment of this act.

(vi) For the purposes of this paragraph, a bidder's "safety record" shall be deemed "acceptable" if their experience modification rate for the most recent three-year period is an average of 1.00 or less, and their average Total Recordable Injury/Illness rate and average lost work rate for the most recent three-year period does not exceed the applicable statistical standards for its business category, or if the bidder is a party to an alternative dispute resolution system, as provided for in Section 3201.5 of the Labor Code.

(e) (1) Any design-build entity that is selected to design and build a project pursuant to this section shall possess or obtain sufficient bonding to cover the contract amount for nondesign services and errors and omissions insurance coverage sufficient to cover all design and architectural services provided in the contract. This section does not prohibit a general or engineering contractor from being designated the lead entity on a design-build entity for the purposes of purchasing necessary bonding to cover the activities of the design-build entity.

(2) Any payment or performance bond written for the purposes of this section shall be written using a bond form developed by the city.

(f) All subcontractors that were not listed by the design-build entity in accordance with clause (i) of subparagraph (A) of paragraph (3) of subdivision (d) shall be awarded by the design-build entity in accordance with the design-build process set forth by the city in the design-build package. All subcontractors bidding on contracts pursuant to this section shall be afforded the protections contained in Chapter 4 (commencing

with Section 4100) of Part 1. The design-build entity shall do both of the following:

(1) Provide public notice of the availability of work to be subcontracted in accordance with the publication requirements applicable to the competitive bidding process of the city.

(2) Provide a fixed date and time on which the subcontracted work will be awarded in accordance with the procedure established pursuant to this section.

(g) The minimum performance criteria and design standards established pursuant to paragraph (1) of subdivision (d) shall be adhered to by the design-build entity. Any deviations from those standards may only be allowed by written consent of the city.

(h) The city may retain the services of a design professional or construction project manager, or both, throughout the course of the project in order to ensure compliance with this section.

(i) Contracts awarded pursuant to this section shall be valid until the project is completed.

(j) Nothing in this section is intended to affect, expand, alter, or limit any rights or remedies otherwise available at law.

(k) (1) If the city elects to award a project pursuant to this section, retention proceeds withheld by the city from the design-build entity shall not exceed 5 percent if a performance and payment bond, issued by an admitted surety insurer, is required in the solicitation of bids.

(2) In a contract between the design-build entity and the subcontractor, and in a contract between a subcontractor and any subcontractor thereunder, the percentage of the retention proceeds withheld may not exceed the percentage specified in the contract between the city and the design-build entity. If the design-build entity provides written notice to any subcontractor who is not a member of the design-build entity, prior to or at the time the bid is requested, that a bond may be required and the subcontractor subsequently is unable or refuses to furnish a bond to the design-build entity, then the design-build entity may withhold retention proceeds in excess of the percentage specified in the contract between the city and the design-build entity from any payment made by the design-build entity to the subcontractor.

(*l*) Each city that elects to proceed under this section and uses the design-build method on a public works project shall submit to the Legislative Analyst's Office before December 1, 2009, a report containing a description of each public works project procured through the design-build process that is completed after January 1, 2006, and before November 1, 2009. The report shall include, but shall not be limited to, all of the following information:

(1) The type of project.

(2) The gross square footage of the project.

(3) The design-build entity that was awarded the project.

(4) The estimated and actual project costs.

(5) A description of any written protests concerning any aspect of the solicitation, bid, proposal, or award of the design-build project, including the resolution of the protests.

(6) An assessment of the prequalification process and criteria.

(7) An assessment of the effect of retaining 5 percent retention on the project.

(8) A description of the Labor Force Compliance Program and an assessment of the project impact, where required.

(9) A description of the method used to award the contract. If the best value method was used, the report shall describe the factors used to evaluate the bid, including the weighting of each factor and an assessment of the effectiveness of the methodology.

(10) An assessment of the project impact of "skilled labor force availability."

(11) An assessment of the most appropriate uses for the design-build approach.

(m) Any city that elects not to use the authority granted by this section may submit a report to the Legislative Analyst's Office explaining why the city elected not to use the design-build method.

(n) On or before January 1, 2010, the Legislative Analyst's Office shall report to the Legislature on the use of the design-build method by cities pursuant to this section, including the information listed in subdivision (*l*). The report may include recommendations for modifying or extending this section.

(o) Except as provided in this section, nothing in this act shall be construed to affect the application of any other law.

(p) This section shall remain in effect only until January 1, 2011, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2011, deletes or extends that date.

SEC. 2. Section 20785 is added to the Public Contract Code, to read:

20785. (a) Notwithstanding any other provision of law, the Orange County Sanitation District may use the procedures described in Section 20133 for the construction of projects in excess of six million dollars ($6,000,000), including, but not limited to, public wastewater facilities.

(b) For purposes of this section, all references in Section 20133 to "county" and "board of supervisors" shall mean the Orange County Sanitation District, and its board of directors.

(c) This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

SEC. 3. (a) The Legislature finds and declares that a special law contained in Section 1 of this act is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique need to build public facilities in a cost-effective manner in the City of Stanton.

(b) The Legislature further finds and declares that due to the unique circumstances of the Orange County Sanitation District with regard to a consent decree that was mutually negotiated with the federal Environmental Protection Agency and the State Water Resources Control Board for the completion of an additional secondary treatment facility within the district by December 2012, a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution. Therefore, the special legislation contained in Section 2 of this act is necessarily applicable only to the Orange County Sanitation District.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CHAPTER 474

An act to amend Sections 6002.1, 6071, 6079.1, 6086.65, 6126, and 6140 of, to add Article 4.8 (commencing with Section 6073) to Chapter 4 of Division 3 of, to add and repeal Section 6140.35 of, and to repeal Section 6140.3 of, the Business and Professions Code, relating to the practice of law.

[Approved by Governor October 11, 2007. Filed with Secretary of State October 11, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 6002.1 of the Business and Professions Code is amended to read:

6002.1. (a) A member of the State Bar shall maintain all of the following on the official membership records of the State Bar:

(1) The member's current office address and telephone number or, if no office is maintained, the address to be used for State Bar purposes or purposes of the agency charged with attorney discipline.

(2) All specialties in which the member is certified.

(3) Any other jurisdictions in which the member is admitted and the dates of his or her admission.

(4) The jurisdiction, and the nature and date of any discipline imposed by another jurisdiction, including the terms and conditions of any probation imposed, and, if suspended or disbarred in another jurisdiction, the date of any reinstatement in that jurisdiction.

(5) Any other information as may be required by agreement with or by conditions of probation imposed by the agency charged with attorney discipline.

A member shall notify the membership records office of the State Bar of any change in the information required by paragraphs (1), (4), and (5) within 30 days of any change and of the change in the information required by paragraphs (2) and (3) on or before the first day of February of each year.

(b) Every former member of the State Bar who has been ordered by the Supreme Court to comply with Rule 9.20 of the California Rules of Court shall maintain on the official membership records of the State Bar the former member's current address and within 10 days after any change therein, shall file a change of address with a membership records office of the State Bar until such time as the former member is no longer subject to the order.

(c) The notice initiating a proceeding conducted under this chapter may be served upon the member or former member of the State Bar to whom it is directed by certified mail, return receipt requested, addressed to the member or former member at the latest address shown on the official membership records of the State Bar. The service is complete at the time of the mailing but any prescribed period of notice and any right or duty to do any act or make any response within any prescribed period or on a date certain after the notice is served by mail shall be extended five days if the place of address is within the State of California, 10 days if the place of address is outside the State of California but within the United States, and 20 days if the place of address is outside the United States. A member of the State Bar or former member may waive the requirements of this subdivision and may, with the written consent of another member of the State Bar, designate that other member to receive service of any notice or papers in any proceeding conducted under this chapter.

(d) The State Bar shall not make available to the general public the information specified in paragraph (5) of subdivision (a) unless that

information is required to be made available by a condition of probation. That information is, however, available to the State Bar, the Supreme Court, or the agency charged with attorney discipline.

(e) The State Bar may develop a prescribed form for the making of reports required by this section, usage of which it may require by rule or regulation.

SEC. 2. Section 6071 of the Business and Professions Code is amended to read:

6071. (a) The State Bar shall request the California Supreme Court to amend Rule 9.31 of the California Rules of Court, relating to the mandatory continuing education program, to provide that one hour of the mandatory eight hours of legal education activities in legal ethics or law practice management, instead, may be satisfied by one hour of legal education activity in the civil and criminal remedies available for civil rights violations.

(b) This section shall not affect the requirement that all active members of the State Bar complete at least four hours of legal education activity in ethics within designated 36-month periods.

SEC. 3. Article 4.8 (commencing with Section 6073) is added to Chapter 4 of Division 3 of the Business and Professions Code, to read:

Article 4.8. Pro Bono Services

6073. It has been the tradition of those learned in the law and licensed to practice law in this state to provide voluntary pro bono legal services to those who cannot afford the help of a lawyer. Every lawyer authorized and privileged to practice law in California is expected to make a contribution. In some circumstances, it may not be feasible for a lawyer to directly provide pro bono services. In those circumstances, a lawyer may instead fulfill his or her individual pro bono ethical commitment, in part, by providing financial support to organizations providing free legal services to persons of limited means. In deciding to provide that financial support, the lawyer should, at minimum, approximate the value of the hours of pro bono legal service that he or she would otherwise have provided. In some circumstances, pro bono contributions may be measured collectively, as by a firm's aggregate pro bono activities or financial contributions. Lawyers also make invaluable contributions through their other voluntary public service activities that increase access to justice or improve the law and the legal system. In view of their expertise in areas that critically affect the lives and well-being of members of the public, lawyers are uniquely situated to provide invaluable assistance to benefit those who might otherwise be unable to

assert or protect their interests and to support those legal organizations that advance these goals.

SEC. 4. Section 6079.1 of the Business and Professions Code is amended to read:

6079.1. (a) The Supreme Court shall appoint a presiding judge of the State Bar Court. In addition, five hearing judges shall be appointed, two by the Supreme Court, one by the Governor, one by the Senate Committee on Rules, and one by the Speaker of the Assembly, to efficiently decide any and all regulatory matters pending before the Hearing Department of the State Bar Court. The presiding judge and all other judges of that department shall be appointed for a term of six years and may be reappointed for additional six-year terms. Any judge appointed under this section shall be subject to admonition, censure, removal, or retirement by the Supreme Court upon the same grounds as provided for judges of courts of record of this state.

(b) Judges of the State Bar Court appointed under this section shall not engage in the private practice of law. The State Bar Court shall be broadly representative of the ethnic, sexual, and racial diversity of the population of California and composed in accordance with Sections 11140 and 11141 of the Government Code. Each judge:

(1) Shall have been a member of the State Bar for at least five years.

(2) Shall not have any record of the imposition of discipline as an attorney in California or any other jurisdiction.

(3) Shall meet any other requirements as may be established by subdivision (d) of Section 12011.5 of the Government Code.

(c) Applicants for appointment or reappointment as a State Bar Court judge shall be screened by an applicant evaluation committee as directed by the Supreme Court. The committee, appointed by the Supreme Court, shall submit evaluations and recommendations to the appointing authority and the Supreme Court as provided in Rule 9.11 of the California Rules of Court, or as otherwise directed by the Supreme Court. The committee shall submit no fewer than three recommendations for each available position.

(d) For judges appointed pursuant to this section or Section 6086.65, the board shall fix and pay reasonable compensation and expenses and provide adequate supporting staff and facilities. Hearing judges shall be paid 91.3225 percent of the salary of a superior court judge. The presiding judge shall be paid the same salary as a superior court judge.

(e) From among the members of the State Bar or retired judges, the Supreme Court or the board may appoint pro tempore judges to decide matters in the Hearing Department of the State Bar Court when a judge of the State Bar Court is unavailable to serve without undue delay to the proceeding. Subject to modification by the Supreme Court, the board

may set the qualifications, terms, and conditions of service for pro tempore judges and may, in its discretion, compensate some or all of them out of funds appropriated by the board for this purpose.

(f) A judge or pro tempore judge appointed under this section shall hear every regulatory matter pending in the Hearing Department of the State Bar Court as to which the taking of testimony or offering of evidence at trial has not commenced, and when so assigned, shall sit as the sole adjudicator, except for rulings that are to be made by the presiding judge of the State Bar Court or referees of other departments of the State Bar Court.

(g) Any judge or pro tempore judge of the State Bar Court as well as any employee of the State Bar assigned to the State Bar Court shall have the same immunity that attaches to judges in judicial proceedings in this state. Nothing in this subdivision limits or alters the immunities accorded the State Bar, its officers and employees, or any judge or referee of the State Bar Court as they existed prior to January 1, 1989. This subdivision does not constitute a change in, but is cumulative with, existing law.

(h) Nothing in this section shall be construed to prohibit the board from appointing persons to serve without compensation to arbitrate fee disputes under Article 13 (commencing with Section 6200) or to monitor the probation of a member of the State Bar, whether those appointed under Section 6079, as added by Chapter 1114 of the Statutes of 1986, serve in the State Bar Court or otherwise.

SEC. 5. Section 6086.65 of the Business and Professions Code is amended to read:

6086.65. (a) There is a Review Department of the State Bar Court, that consists of the Presiding Judge of the State Bar Court and two Review Department judges appointed by the Supreme Court. The judges of the Review Department shall be nominated, appointed, and subject to discipline as provided by subdivision (a) of Section 6079.1, shall be qualified as provided by subdivision (b) of Section 6079.1, and shall be compensated as provided for the presiding judge by subdivision (d) of Section 6079.1. However, the two Review Department judges may be appointed to, and paid as, positions occupying one-half the time and pay of the presiding judge. Candidates shall be rated and screened pursuant to Rule 9.11 of the California Rules of Court or as otherwise directed by the Supreme Court.

(b) The Presiding Judge of the State Bar Court shall appoint an Executive Committee of the State Bar Court of no fewer than seven persons, including one person who has never been a member of the State Bar or admitted to practice law before any court in the United States. The Executive Committee may adopt rules of practice for the operation of the State Bar Court as provided in Section 6086.5.

(c) Any decision or order reviewable by the Review Department and issued by a judge of the State Bar Court appointed pursuant to Section 6079.1 may be reviewed only upon timely request of a party to the proceeding and not on the Review Department's own motion. The standard to be applied by the Review Department in reviewing a decision, order, or ruling by a hearing judge fully disposing of a proceeding is established in Rule 9.12 of the California Rules of Court, or as otherwise directed by the Supreme Court.

SEC. 6. Section 6126 of the Business and Professions Code is amended to read:

6126. (a) Any person advertising or holding himself or herself out as practicing or entitled to practice law or otherwise practicing law who is not an active member of the State Bar, or otherwise authorized pursuant to statute or court rule to practice law in this state at the time of doing so, is guilty of a misdemeanor punishable by up to one year in a county jail or by a fine of up to one thousand dollars ($1,000), or by both that fine and imprisonment. Upon a second or subsequent conviction, the person shall be confined in a county jail for not less than 90 days, except in an unusual case where the interests of justice would be served by imposition of a lesser sentence or a fine. If the court imposes only a fine or a sentence of less than 90 days for a second or subsequent conviction under this subdivision, the court shall state the reasons for its sentencing choice on the record.

(b) Any person who has been involuntarily enrolled as an inactive member of the State Bar, or has been suspended from membership from the State Bar, or has been disbarred, or has resigned from the State Bar with charges pending, and thereafter practices or attempts to practice law, advertises or holds himself or herself out as practicing or otherwise entitled to practice law, is guilty of a crime punishable by imprisonment in the state prison or a county jail. However, any person who has been involuntarily enrolled as an inactive member of the State Bar pursuant to paragraph (1) of subdivision (e) of Section 6007 and who knowingly thereafter practices or attempts to practice law, or advertises or holds himself or herself out as practicing or otherwise entitled to practice law, is guilty of a crime punishable by imprisonment in the state prison or a county jail.

(c) The willful failure of a member of the State Bar, or one who has resigned or been disbarred, to comply with an order of the Supreme Court to comply with Rule 9.20 of the California Rules of Court, constitutes a crime punishable by imprisonment in the state prison or a county jail.

(d) The penalties provided in this section are cumulative to each other and to any other remedies or penalties provided by law.

SEC. 7. Section 6140 of the Business and Professions Code is amended to read:

6140. (a) The board shall fix the annual membership fee for active members for 2008 at a sum not exceeding three hundred fifteen dollars ($315).

(b) The annual membership fee for active members is payable on or before the first day of February of each year. If the board finds it appropriate and feasible, it may provide by rule for payment of fees on an installment basis with interest, by credit card, or other means, and may charge members choosing any alternative method of payment an additional fee to defray costs incurred by that election.

(c) On or before January 10, 2008, the board shall report to the Chairs of the Senate and Assembly Committees on Judiciary, with a copy to the State Auditor, all of the following:

(1) Whether the State Bar has fully completed and implemented its strategic planning process for all of the State Bar's departments, and, if completed and implemented, the result of the 2008 budgeting process methodology using the strategic plan.

(2) A report on the status of the funds collected pursuant to Section 6140.3, as that section read on December 1, 2007, including the income paid into, and expenses paid out of, those funds for 2007, and the end-of-year balance for 2007.

(3) Whether the State Bar is in full compliance with its checklist and auditing systems and the changes it has implemented to address concerns identified by the State Auditor that will ensure complete and efficient case processing of disciplinary matters.

(4) The State Bar's plan to control Client Security Fund administrative expenses.

(5) Whether the State Bar has fully complied with its administrative and monitoring responsibilities with respect to the Legal Services Trust Fund Program, including monitoring trust account reporting compliance.

(d) This section shall remain in effect only until January 1, 2009, and, as of that date, is repealed, unless a later enacted statute, that is enacted before January 1, 2009, deletes or extends that date.

SEC. 8. Section 6140.3 of the Business and Professions Code is repealed.

SEC. 9. Section 6140.35 is added to the Business and Professions Code, to read:

6140.35. (a) The board may increase the annual membership fee fixed by Section 6140 by an additional amount not exceeding ten dollars ($10). This additional amount may be used only for the costs of upgrading the board's information technology system, including purchasing and maintenance costs and both computer hardware and software. This special

assessment for information technology upgrades shall be separately listed and described in the annual membership fee invoice, which shall include notice of the repeal of this section on January 1, 2011.

(b) This section shall remain in effect only until January 1, 2011, and, as of that date, is repealed.

CHAPTER 475

An act to amend Sections 11364, 11400, 11465, and 16501.25 of the Welfare and Institutions Code, relating to foster care.

[Approved by Governor October 11, 2007. Filed with Secretary of State October 11, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 11364 of the Welfare and Institutions Code is amended to read:

11364. Notwithstanding subdivision (a) of Section 11450, the rate paid on behalf of children eligible for a Kin-GAP payment shall equal 100 percent of the rate for children placed in a licensed or approved home as specified in subdivisions (a) to (d), inclusive, of Section 11461. For a child eligible for a Kin-GAP payment who is a teen parent, the rate shall include the two hundred dollar ($200) monthly payment made to the relative caregiver in a whole family foster home pursuant to paragraph (3) of subdivision (d) of Section 11465, where prior to entering the Kin-GAP program, the relative was receiving foster care benefits on behalf of the child as a whole family foster home. In addition, effective October 1, 2006, the rate paid for a child eligible for a Kin-GAP payment shall be increased by an amount equal to the clothing allowances, as set forth in subdivision (f) of Section 11461, to which the child would have been entitled while in foster care, including any applicable rate adjustments. In addition, effective October 1, 2006, if a child, while in foster care, received a specialized care increment, immediately prior to his or her enrollment in the Kin-GAP Program, as defined in paragraph (1) of subdivision (e) of Section 11461, the Kin-GAP rate shall be adjusted by the specialized care increment amount, including any applicable rate adjustments.

SEC. 2. Section 11400 of the Welfare and Institutions Code, as amended by Section 4.5 of Chapter 630 of the Statutes of 2005, is amended to read:

11400. For the purposes of this article, the following definitions shall apply:

(a) "Aid to Families with Dependent Children-Foster Care (AFDC-FC)" means the aid provided on behalf of needy children in foster care under the terms of this division.

(b) "Case plan" means a written document that, at a minimum, specifies the type of home in which the child shall be placed, the safety of that home, and the appropriateness of that home to meet the child's needs. It shall also include the agency's plan for ensuring that the child receive proper care and protection in a safe environment, and shall set forth the appropriate services to be provided to the child, the child's family, and the foster parents, in order to meet the child's needs while in foster care, and to reunify the child with the child's family. In addition, the plan shall specify the services that will be provided or steps that will be taken to facilitate an alternate permanent plan if reunification is not possible.

(c) "Certified family home" means a family residence certified by a licensed foster family agency and issued a certificate of approval by that agency as meeting licensing standards, and used only by that foster family agency for placements.

(d) "Family home" means the family residency of a licensee in which 24-hour care and supervision are provided for children.

(e) "Small family home" means any residential facility, in the licensee's family residence, which provides 24-hour care for six or fewer foster children who have mental disorders or developmental or physical disabilities and who require special care and supervision as a result of their disabilities.

(f) "Foster care" means the 24-hour out-of-home care provided to children whose own families are unable or unwilling to care for them, and who are in need of temporary or long-term substitute parenting.

(g) "Foster family agency" means any individual or organization engaged in the recruiting, certifying, and training of, and providing professional support to, foster parents, or in finding homes or other places for placement of children for temporary or permanent care who require that level of care as an alternative to a group home. Private foster family agencies shall be organized and operated on a nonprofit basis.

(h) "Group home" means a nondetention privately operated residential home, organized and operated on a nonprofit basis only, of any capacity, or a nondetention licensed residential care home operated by the County of San Mateo with a capacity of up to 25 beds, that provides services in a group setting to children in need of care and supervision, as required by paragraph (1) of subdivision (a) of Section 1502 of the Health and Safety Code.

(i) "Periodic review" means review of a child's status by the juvenile court or by an administrative review panel, that shall include a consideration of the safety of the child, a determination of the continuing need for placement in foster care, evaluation of the goals for the placement and the progress toward meeting these goals, and development of a target date for the child's return home or establishment of alternative permanent placement.

(j) "Permanency planning hearing" means a hearing conducted by the juvenile court in which the child's future status, including whether the child shall be returned home or another permanent plan shall be developed, is determined.

(k) "Placement and care" refers to the responsibility for the welfare of a child vested in an agency or organization by virtue of the agency or organization having (1) been delegated care, custody, and control of a child by the juvenile court, (2) taken responsibility, pursuant to a relinquishment or termination of parental rights on a child, (3) taken the responsibility of supervising a child detained by the juvenile court pursuant to Section 319 or 636, or (4) signed a voluntary placement agreement for the child's placement; or to the responsibility designated to an individual by virtue of his or her being appointed the child's legal guardian.

(*l*) "Preplacement preventive services" means services that are designed to help children remain with their families by preventing or eliminating the need for removal.

(m) "Relative" means an adult who is related to the child by blood, adoption, or affinity within the fifth degree of kinship, including stepparents, stepsiblings, and all relatives whose status is preceded by the words "great," "great-great," or "grand" or the spouse of any of these persons even if the marriage was terminated by death or dissolution.

(n) "Nonrelative extended family member" means an adult caregiver who has an established familial or mentoring relationship with the child, as described in Section 362.7.

(o) "Voluntary placement" means an out-of-home placement of a child by (1) the county welfare department after the parents or guardians have requested the assistance of the county welfare department and have signed a voluntary placement agreement; or (2) the county welfare department licensed public or private adoption agency, or the department acting as an adoption agency, after the parents have requested the assistance of either the county welfare department, the licensed public or private adoption agency, or the department acting as an adoption agency for the purpose of adoption planning, and have signed a voluntary placement agreement.

(p) "Voluntary placement agreement" means a written agreement between either the county welfare department, a licensed public or private adoption agency, or the department acting as an adoption agency, and the parents or guardians of a child that specifies, at a minimum, the following:

(1) The legal status of the child.

(2) The rights and obligations of the parents or guardians, the child, and the agency in which the child is placed.

(q) "Original placement date" means the most recent date on which the court detained a child and ordered an agency to be responsible for supervising the child or the date on which an agency assumed responsibility for a child due to termination of parental rights, relinquishment, or voluntary placement.

(r) "Transitional housing placement facility" means either of the following:

(1) A community care facility licensed by the State Department of Social Services pursuant to Section 1559.110 of the Health and Safety Code to provide transitional housing opportunities to persons at least 16 years of age, and not more than 18 years of age unless they satisfy the requirements of Section 11403, who are in out-of-home placement under the supervision of the county department of social services or the county probation department, and who are participating in an independent living program.

(2) A facility certified to provide transitional housing services pursuant to subdivision (e) of Section 1559.110 of the Health and Safety Code.

(s) "Transitional housing placement program" means a program that provides supervised housing opportunities to eligible youth pursuant to Article 4 (commencing with Section 16522) of Chapter 5 of Part 4.

(t) "Whole family foster home" means a new or existing family home, approved relative caregiver or nonrelative extended family member's home, the home of a nonrelated legal guardian whose guardianship was established pursuant to Section 366.26 or 360, certified family home that provides foster care for a minor parent and his or her child, and is specifically recruited and trained to assist the minor parent in developing the skills necessary to provide a safe, stable, and permanent home for his or her child. The child of the minor parent need not be the subject of a petition filed pursuant to Section 300 to qualify for placement in a whole family foster home.

(u) This section shall become operative on January 1, 2008.

SEC. 2.5. Section 11400 of the Welfare and Institutions Code, as amended by Section 4.5 of Chapter 630 of the Statutes of 2005, is amended to read:

11400. For the purposes of this article, the following definitions shall apply:

(a) "Aid to Families with Dependent Children-Foster Care (AFDC-FC)" means the aid provided on behalf of needy children in foster care under the terms of this division.

(b) "Case plan" means a written document that, at a minimum, specifies the type of home in which the child shall be placed, the safety of that home, and the appropriateness of that home to meet the child's needs. It shall also include the agency's plan for ensuring that the child receive proper care and protection in a safe environment, and shall set forth the appropriate services to be provided to the child, the child's family, and the foster parents, in order to meet the child's needs while in foster care, and to reunify the child with the child's family. In addition, the plan shall specify the services that will be provided or steps that will be taken to facilitate an alternate permanent plan if reunification is not possible.

(c) "Certified family home" means a family residence certified by a licensed foster family agency and issued a certificate of approval by that agency as meeting licensing standards, and used only by that foster family agency for placements.

(d) "Family home" means the family residency of a licensee in which 24-hour care and supervision are provided for children.

(e) "Small family home" means any residential facility, in the licensee's family residence, which provides 24-hour care for six or fewer foster children who have mental disorders or developmental or physical disabilities and who require special care and supervision as a result of their disabilities.

(f) "Foster care" means the 24-hour out-of-home care provided to children whose own families are unable or unwilling to care for them, and who are in need of temporary or long-term substitute parenting.

(g) "Foster family agency" means any individual or organization engaged in the recruiting, certifying, and training of, and providing professional support to, foster parents, or in finding homes or other places for placement of children for temporary or permanent care who require that level of care as an alternative to a group home. Private foster family agencies shall be organized and operated on a nonprofit basis.

(h) "Group home" means a nondetention privately operated residential home, organized and operated on a nonprofit basis only, of any capacity, or a nondetention licensed residential care home operated by the County of San Mateo or the County of Contra Costa, with a capacity of up to 25 beds, that provides services in a group setting to children in need of care and supervision, as required by paragraph (1) of subdivision (a) of Section 1502 of the Health and Safety Code. The authority of Contra

Costa County to operate a group home pursuant to this subdivision shall extend only to the operation of the Chris Adams Center.

(i) "Periodic review" means review of a child's status by the juvenile court or by an administrative review panel, that shall include a consideration of the safety of the child, a determination of the continuing need for placement in foster care, evaluation of the goals for the placement and the progress toward meeting these goals, and development of a target date for the child's return home or establishment of alternative permanent placement.

(j) "Permanency planning hearing" means a hearing conducted by the juvenile court in which the child's future status, including whether the child shall be returned home or another permanent plan shall be developed, is determined.

(k) "Placement and care" refers to the responsibility for the welfare of a child vested in an agency or organization by virtue of the agency or organization having (1) been delegated care, custody, and control of a child by the juvenile court, (2) taken responsibility, pursuant to a relinquishment or termination of parental rights on a child, (3) taken the responsibility of supervising a child detained by the juvenile court pursuant to Section 319 or 636, or (4) signed a voluntary placement agreement for the child's placement; or to the responsibility designated to an individual by virtue of his or her being appointed the child's legal guardian.

(*l*) "Preplacement preventive services" means services that are designed to help children remain with their families by preventing or eliminating the need for removal.

(m) "Relative" means an adult who is related to the child by blood, adoption, or affinity within the fifth degree of kinship, including stepparents, stepsiblings, and all relatives whose status is preceded by the words "great," "great-great," or "grand" or the spouse of any of these persons even if the marriage was terminated by death or dissolution.

(n) "Nonrelative extended family member" means an adult caregiver who has an established familial or mentoring relationship with the child, as described in Section 362.7.

(o) "Voluntary placement" means an out-of-home placement of a child by (1) the county welfare department after the parents or guardians have requested the assistance of the county welfare department and have signed a voluntary placement agreement; or (2) the county welfare department licensed public or private adoption agency, or the department acting as an adoption agency, after the parents have requested the assistance of either the county welfare department, the licensed public or private adoption agency, or the department acting as an adoption

agency for the purpose of adoption planning, and have signed a voluntary placement agreement.

(p) "Voluntary placement agreement" means a written agreement between either the county welfare department, a licensed public or private adoption agency, or the department acting as an adoption agency, and the parents or guardians of a child that specifies, at a minimum, the following:

(1) The legal status of the child.

(2) The rights and obligations of the parents or guardians, the child, and the agency in which the child is placed.

(q) "Original placement date" means the most recent date on which the court detained a child and ordered an agency to be responsible for supervising the child or the date on which an agency assumed responsibility for a child due to termination of parental rights, relinquishment, or voluntary placement.

(r) "Transitional housing placement facility" means either of the following:

(1) A community care facility licensed by the State Department of Social Services pursuant to Section 1559.110 of the Health and Safety Code to provide transitional housing opportunities to persons at least 16 years of age, and not more than 18 years of age unless they satisfy the requirements of Section 11403, who are in out-of-home placement under the supervision of the county department of social services or the county probation department, and who are participating in an independent living program.

(2) A facility certified to provide transitional housing services pursuant to subdivision (e) of Section 1559.110 of the Health and Safety Code.

(s) "Transitional housing placement program" means a program that provides supervised housing opportunities to eligible youth pursuant to Article 4 (commencing with Section 16522) of Chapter 5 of Part 4.

(t) "Whole family foster home" means a new or existing family home, approved relative caregiver or nonrelative extended family member's home, the home of a nonrelated legal guardian whose guardianship was established pursuant to Section 366.26 or 360, certified family home that provides foster care for a minor parent and his or her child, and is specifically recruited and trained to assist the minor parent in developing the skills necessary to provide a safe, stable, and permanent home for his or her child. The child of the minor parent need not be the subject of a petition filed pursuant to Section 300 to qualify for placement in a whole family foster home.

(u) This section shall become operative on January 1, 2008.

SEC. 3. Section 11465 of the Welfare and Institutions Code is amended to read:

11465. (a) When a child is living with a parent who receives AFDC-FC or Kin-GAP benefits, the rate paid to the provider on behalf of the parent shall include an amount for care and supervision of the child.

(b) For each category of eligible licensed community care facility, as defined in Section 1502 of the Health and Safety Code, the department shall adopt regulations setting forth a uniform rate to cover the cost of care and supervision of the child in each category of eligible licensed community care facility.

(c) (1) On and after July 1, 1998, the uniform rate to cover the cost of care and supervision of a child pursuant to this section shall be increased by 6 percent, rounded to the nearest dollar. The resultant amounts shall constitute the new uniform rate.

(2) (A) On and after July 1, 1999, the uniform rate to cover the cost of care and supervision of a child pursuant to this section shall be adjusted by an amount equal to the California Necessities Index computed pursuant to Section 11453, rounded to the nearest dollar. The resultant amounts shall constitute the new uniform rate, subject to further adjustment pursuant to subparagraph (B).

(B) In addition to the adjustment specified in subparagraph (A), on and after January 1, 2000, the uniform rate to cover the cost of care and supervision of a child pursuant to this section shall be increased by 2.36 percent, rounded to the nearest dollar. The resultant amounts shall constitute the new uniform rate.

(3) Subject to the availability of funds, for the 2000–01 fiscal year and annually thereafter, these rates shall be adjusted for cost of living pursuant to procedures in Section 11453.

(4) On and after January 1, 2008, the uniform rate to cover the cost of care and supervision of a child pursuant to this section shall be increased by 5 percent, rounded to the nearest dollar. The resulting amount shall constitute the new uniform rate.

(d) (1) Notwithstanding subdivisions (a) to (c), inclusive, the payment made pursuant to this section for care and supervision of a child who is living with a teen parent in a whole family foster home, as defined in Section 11400, shall equal the basic rate for children placed in a licensed or approved home as specified in subdivisions (a) to (d), inclusive, of Section 11461.

(2) The amount paid for care and supervision of a dependent infant living with a dependent teen parent receiving AFDC-FC benefits in a group home placement shall equal the infant supplement rate for group home placements.

(3) The caregiver shall provide the county child welfare agency or probation department with a copy of the shared responsibility plan

developed pursuant to Section 16501.25 and shall advise the county child welfare agency or probation department of any subsequent changes to the plan. Once the plan has been completed and provided to the appropriate agencies, the payment made pursuant to this section shall be increased by an additional two hundred dollars ($200) per month to reflect the increased care and supervision while he or she is placed in the whole family foster home.

(4) In any year in which the payment provided pursuant to this section is adjusted for the cost of living as provided in paragraph (1) of subdivision (c), the payments provided for in this subdivision shall also be increased by the same procedures.

(5) A Kin-GAP relative who, immediately prior to entering the Kin-GAP program, was designated as a whole family foster home shall receive the same payment amounts for the care and supervision of a child who is living with a teen parent they received in foster care as a whole family foster home.

SEC. 4. Section 16501.25 of the Welfare and Institutions Code is amended to read:

16501.25. (a) For the purposes of this section, "teen parent" means a child who has been adjudged to be a dependent child or ward of the court on the grounds that he or she is a person described under Section 300 or Section 602, or a ward of a nonrelated legal guardian whose guardianship was established pursuant to Section 366.26 or 360, living in out-of-home placement in a whole family foster home, as defined in subdivision (u) of Section 11400, who is a parent.

(b) (1) When the child of a teen parent is not subject to the jurisdiction of the dependency court but is in the full or partial physical custody of the teen parent, a written shared responsibility plan shall be developed. The plan shall be developed between the teen parent, caregiver, and a representative of the county child welfare agency or probation department, and in the case of a certified home, a representative of the agency providing direct and immediate supervision to the caregiver. Additional input may be provided by any individuals identified by the teen parent, the other parent of the child, if appropriate, and other extended family members. The plan shall be developed as soon as is practicably possible. However, if one or more of the above stakeholders are not available to participate in the creation of the plan within the first 30 days of the teen parent's placement, the teen parent and caregiver may enter into a plan for the purposes of fulfilling the requirements of paragraph (2) of subdivision (d) of Section 11465, which may be modified at a later time when the other individuals become available.

(2) The plan shall be designed to preserve and strengthen the teen parent family unit, as described in Section 16002.5, to assist the teen

parent in meeting the goals outlined in Section 16002.5, to facilitate a supportive home environment for the teen parent and the child, and to ultimately enable the teen parent to independently provide a safe, stable, and permanent home for the child. The plan shall in no way limit the teen parent's legal right to make decisions regarding the care, custody, and control of the child.

(3) The plan shall be written for the express purpose of aiding the teen parent and the caregiver to reach agreements aimed at reducing conflict and misunderstandings. The plan shall outline, with as much specificity as is practicable, the duties, rights, and responsibilities of both the teen parent and the caregiver with regard to the child, and identify supportive services to be offered to the teen parent by the caregiver or, in the case of a certified home, the agency providing direct and immediate supervision to the caregiver, or both. The plan shall be updated, as needed, to account for the changing needs of infants and toddlers, and in accordance with the teen parent's changing school, employment, or other outside responsibilities. The plan shall not conflict with the teen parent's case plan. Areas to be addressed by the plan include, but are not limited to, all of the following:

(A) Feeding.

(B) Clothing.

(C) Hygiene.

(D) Purchase of necessary items, including, but not limited to, safety items, food, clothing, and developmentally appropriate toys and books. This includes both one-time purchases and items needed on an ongoing basis.

(E) Health care.

(F) Transportation to health care appointments, child care, and school, as appropriate.

(G) Provision of child care and babysitting.

(H) Discipline.

(I) Sleeping arrangements.

(J) Visits among the child, his or her noncustodial parent, and other appropriate family members, including the responsibilities of the teen parent, the caregiver, and the foster family agency, as appropriate, for facilitating the visitation. The shared responsibility plan shall not conflict with the teen parent's case plan and any visitation orders made by the court.

(c) Upon completion of the shared responsibility plan and any subsequent updates to the plan, a copy shall be provided to the teen parent and his or her attorney, the caregiver, the county child welfare agency or probation department and, in the case of a certified home, the agency providing direct and immediate supervision to the caregiver.

(d) The shared responsibility plan requirements shall no longer apply when the two hundred dollar ($200) monthly payment is made under the Kin-GAP program to a former whole family foster home pursuant to subdivision (a) of Section 11465.

SEC. 5. No appropriation pursuant to Section 15200 of the Welfare and Institutions Code shall be made for the purposes of funding this act.

SEC. 6. Section 2.5 of this bill incorporates amendments to Section 11400 of the Welfare and Institutions Code proposed by both this bill and AB 1494. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2008, (2) each bill amends Section 11400 of the Welfare and Institutions Code, and (3) this bill is enacted after AB 1494, in which case Section 2 of this bill shall not become operative.

CHAPTER 476

An act to add and repeal Sections 60050 and 60227 of the Education Code, relating to instructional materials.

[Approved by Governor October 11, 2007. Filed with Secretary of State October 11, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 60050 is added to the Education Code, to read:

60050. (a) The state board shall adopt regulations to govern the social content reviews conducted at the request of a publisher or manufacturer of instructional materials outside the primary and followup instructional material adoption processes. A social content review is intended to determine compliance with Sections 60040, 60041, 60042, 60043, 60044, 60048, 60200.5, and 60200.6, and the guidelines for social content adopted by the state board.

(b) (1) For purposes of this section, social content reviews of instructional materials shall be conducted by the department or its agents for all instructional materials, as defined in subdivision (h) of Section 60010.

(2) The department may contract with agents to conduct social content reviews pursuant to this section.

(c) The department shall assess a fee for social content reviews conducted pursuant to this section. The fee shall be established and assessed pursuant to the requirements specified in subdivisions (d) to (f), inclusive, of Section 60227, and the publishers and manufacturers

shall be provided notice of the establishment of the fee pursuant to subdivisions (b) and (c) of Section 60227.

(d) Revenue derived from fees charged pursuant to subdivision (c) shall be budgeted as reimbursements and subject to review through the annual budget process and may be used to pay costs associated with the social content review of instructional materials.

(e) This section shall remain in effect only until January 1, 2011, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2011, deletes or extends that date.

SEC. 2. Section 60227 is added to the Education Code, to read:

60227. (a) For purposes of this section, a followup adoption is any adoption other than the primary adoption that occurs within a six- or eight-year cycle established pursuant to subdivision (b) of Section 60200.

(b) Before conducting a followup adoption in a given subject, the department shall provide notice, pursuant to subdivision (c), to all publishers or manufacturers known to produce basic instructional materials in that subject, post an appropriate notice on the Internet Web site of the department, and take other reasonable measures to ensure that appropriate notice is widely circulated to potentially interested publishers and manufacturers.

(c) The notice shall specify that each publisher or manufacturer choosing to participate in the followup adoption shall be assessed a fee based upon the number of programs the publisher or manufacturer indicates will be submitted for review and the number of grade levels proposed to be covered by each program.

(d) The fee shall offset the cost of conducting the followup adoption process and shall reflect the best estimate of the cost by the department. The department shall take reasonable steps to limit costs of the followup adoption and to keep the fee modest, recognizing that some of the work necessary for the primary adoption need not be duplicated.

(e) The department, prior to incurring substantial costs for the followup adoption, shall require that a publisher or manufacturer who wishes to participate in the followup adoption first declare the intent to submit one or more specific programs for the followup adoption and specify the specific grade levels to be covered by each program. After a publisher or manufacturer has declared the intent to submit one or more programs and the grade levels to be covered by each program, a fee shall be assessed by the department. The fee shall be payable by the publisher or manufacturer even if the publisher subsequently chooses to withdraw a program or reduce the number of grade levels covered. A submission by a publisher or manufacturer shall not be reviewed for purposes of adoption, either in a followup adoption or in any other primary or

followup adoption conducted thereafter, until the fee assessed has been paid in full.

(f) (1) It is the intent of the Legislature that the fee not be so substantial that it prevents small publishers or manufacturers from participating in a followup adoption.

(2) Upon the request of a small publisher or manufacturer, the state board may reduce the fee for participation in the followup adoption.

(3) For purposes of this section, "small publisher" and "small manufacturer" mean an independently owned or operated publisher or manufacturer that is not dominant in its field of operation, and that, together with its affiliates, has 100 or fewer employees, and has average annual gross receipts of ten million dollars ($10,000,000) or less over the previous three years.

(g) Notwithstanding subdivision (b) of Section 60200, if the department determines that there is little or no interest in participating in a followup adoption by publishers and manufacturers, it shall recommend to the state board that the followup adoption not be conducted, and the state board may chose not to conduct the followup adoption.

(h) Revenue derived from fees charged pursuant to subdivision (e) shall be budgeted as reimbursements and subject to review through the annual budget process and may be used to pay costs associated with any followup adoption and any costs associated with the review of instructional materials.

(i) This section shall remain in effect only until January 1, 2011, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2011, deletes or extends that date.

CHAPTER 477

An act to add and repeal Section 1714.22 of the Civil Code, relating to drug overdose treatment.

[Approved by Governor October 11, 2007. Filed with Secretary of State October 11, 2007.]

The people of the State of California do enact as follows:

SECTION 1. The Legislature hereby finds and declares that because drug overdose deaths are preventable, it is therefore an appropriate role for the state to do all of the following:

(a) Seek to prevent the onset of drug use through preventive measures.

(b) Provide cessation treatment for those addicted to drugs.

(c) Prosecute those who sell controlled substances.

(d) Seek to prevent needless death and damage caused by drug overdose by implementing appropriate crisis interventions when these interventions are needed.

SEC. 2. Section 1714.22 is added to the Civil Code, to read:

1714.22. (a) For purposes of this section:

(1) "Opioid antagonist" means naloxone hydrochloride that is approved by the federal Food and Drug Administration for the treatment of a drug overdose.

(2) "Opioid overdose prevention and treatment training program" or "program" means any program operated by a local health jurisdiction or that is registered by a local health jurisdiction to train individuals to prevent, recognize, and respond to an opiate overdose, and that provides, at a minimum, training in all of the following:

(A) The causes of an opiate overdose.

(B) Mouth to mouth resuscitation.

(C) How to contact appropriate emergency medical services.

(D) How to administer an opioid antagonist.

(b) A licensed health care provider who is permitted by law to prescribe an opioid antagonist may, if acting with reasonable care, prescribe and subsequently dispense or distribute an opioid antagonist in conjunction with an opioid overdose prevention and treatment training program, without being subject to civil liability or criminal prosecution. This immunity shall apply to the licensed health care provider even when the opioid antagonist is administered by and to someone other than the person to whom it is prescribed.

(c) Each local health jurisdiction that operates or registers an opioid overdose prevention and treatment training program shall, by January 1, 2010, collect, and report to the Senate and Assembly Committees on Judiciary, all of the following data on programs within the jurisdiction:

(1) Number of training programs operating in the local health jurisdiction.

(2) Number of individuals who have received a prescription for, and training to administer, an opioid antagonist.

(3) Number of opioid antagonist doses prescribed.

(4) Number of opioid antagonist doses administered.

(5) Number of individuals who received opioid antagonist injections who were properly revived.

(6) Number of individuals who received opioid antagonist injections who were not revived.

(7) Number of adverse events associated with an opioid antagonist dose that was distributed as part of an opioid overdose prevention and treatment training program, including a description of the adverse events.

(d) This section shall apply only to the Counties of Alameda, Fresno, Humboldt, Los Angeles, Mendocino, San Francisco, and Santa Cruz.

(e) This section shall remain in effect only until January 1, 2011, and as of that date is repealed, unless a later enacted statute, that is enacted on or before January 1, 2011, deletes or extends that date.

CHAPTER 478

An act to amend Sections 7912, 7914, and 7915 of, and to add Sections 7916, 7917, 7918, and 7919 to, the Labor Code, relating to amusement rides.

[Approved by Governor October 11, 2007. Filed with Secretary of State October 11, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 7912 of the Labor Code is amended to read:

7912. No person shall operate an amusement ride unless there is in existence and on file with the division a policy of insurance, issued by a company licensed by the Department of Insurance to do business in the state, or by a nonadmitted insurer employed by a surplus lines broker licensed by the Department of Insurance, in an amount of not less than five hundred thousand dollars ($500,000) until January 1, 2009, and, effective on and after January 1, 2009, one million dollars ($1,000,000) per occurrence insuring the owner or operator against liability for injury suffered by persons riding the amusement ride.

SEC. 2. Section 7914 of the Labor Code is amended to read:

7914. (a) An operator of an amusement ride shall report or cause to be reported to the division immediately by telephone each known incident where the maintenance, operation, or use of the amusement ride results in any of the following:

(1) A fatality.

(2) A loss of consciousness or other injury to a person which requires medical service other than ordinary first aid treatment.

(3) Major mechanical failure. For purposes of this section, "major mechanical failure" means the stoppage of operation resulting from or in a structural failure, a mechanical or electrical failure of a drive or control system component, or a failure of a restraint system that

significantly compromises ride safety. "Major mechanical failure" does not include a foreseeable malfunction that activates a safety system.

(4) A patron falling from a moving ride or from a ride that has temporarily stopped in an elevated position.

(b) If a fatality, reportable injury, or major mechanical failure, as defined in subdivision (a),is caused by the failure, malfunction, or operation of an amusement ride, the equipment or conditions that caused the accident shall be preserved for the purpose of investigation by the division.

(c) In addition to the report by telephone required under subdivision (a), an operator of an amusement ride shall submit a written accident report to the division within 24 hours of an incident on a form designated by the division.

(d) A division inspector may inspect an amusement ride upon receipt of the report of an incident.

(e) Whenever a state, county, or local fire or police agency is called to an accident involving an amusement ride covered by this part in which a serious injury or illness, or death occurs, the nearest office of the division shall be notified by telephone immediately by the responding agency.

SEC. 3. Section 7915 of the Labor Code is amended to read:

7915. (a) Any owner or operator of any amusement ride who fails to comply with any provision of this part or any rule, regulation, or safety order adopted pursuant to this part shall be guilty of a misdemeanor.

(b) Whenever an owner or operator of any amusement ride fails to pay any fee required under Section 7904 within 60 days after notification, the owner or operator shall pay, in addition to the fee required, a penalty fee equal to 100 percent of the required fee. For purposes of this section, the date of the invoice shall be considered the date of notification.

(c) The division shall not issue any permit to any owner or operator of any amusement ride who fails to pay any fee until the fee is paid.

SEC. 4. Section 7916 is added to the Labor Code, to read:

7916. (a) An owner of an amusement ride shall provide training for its employees in the safe operation and maintenance of amusement rides, as required by Sections 4, 6, 7, and 8 of ASTM F770-06, Standard Practice for Ownership and Operation of Amusement Rides and Devices, adopted by the American Society for Testing and Materials, as amended or as may be amended from time to time and as the division deems appropriate, and the injury prevention program required under Section 6401.7.

(b) The owner of an amusement ride shall maintain all of the records necessary to demonstrate that the requirements of subdivision (a) have been met, including employee training records and maintenance, repair,

inspection, and injury and illness records for each amusement ride, as specified in ASTM F770-06 referenced in subdivision (a). On and after January 1, 2009, the owner of an amusement ride shall make the records available to a division inspector upon request.

SEC. 5. Section 7917 is added to the Labor Code, to read:

7917. If the division determines that an owner or operator of an amusement ride subject to this part has willfully or intentionally violated this part or a rule or regulation promulgated under this part, and that the violation resulted in a death or reportable injury as specified in Section 7914, the division shall impose on that owner or operator a civil penalty of not less than five thousand dollars ($5,000) and not more than twenty-five thousand dollars ($25,000).

SEC. 6. Section 7918 is added to the Labor Code, to read:

7918. The division shall enforce this part by the issuance of a citation and notice of civil penalty in a manner consistent with that specified in Section 6317 or in some other manner as deemed appropriate by the division. An owner or operator who receives a citation and penalty may appeal the citation and penalty to the Occupational Safety and Health Appeals Board in a manner consistent with that specified in Section 6319.

SEC. 7. Section 7919 is added to the Labor Code, to read:

7919. The division shall adopt rules and regulations necessary for the administration of this part, including, the reporting requirements established under Section 7914.

SEC. 8. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CHAPTER 479

An act to amend Sections 116028 and 116033 of the Health and Safety Code, relating to public swimming pools.

[Approved by Governor October 11, 2007. Filed with Secretary of State October 11, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 116028 of the Health and Safety Code is amended to read:

116028. "Lifeguard service," as used in this article, means the attendance at a public swimming pool, during periods of use, of one or more lifeguards who possess, as minimum qualifications, current certificates from an American Red Cross or YMCA of the U.S.A. lifeguard training program, or have equivalent qualifications, as determined by the department, and who are trained to administer first aid, including, but not limited to, cardiopulmonary resuscitation in conformance with Section 123725 and the regulations adopted thereunder, and who have no duties to perform other than to supervise the safety of participants in water-contact activities. "Lifeguard services" includes the supervision of the safety of participants in water-contact activities by lifeguards who are providing swimming lessons, coaching or overseeing water-contact sports, or providing water safety instructions to participants when no other persons are using the facilities unless those persons are supervised by separate lifeguard services.

SEC. 2. Section 116033 of the Health and Safety Code is amended to read:

116033. Persons providing aquatic instruction, including, but not limited to, swimming instruction, water safety instruction, water contact activities, and competitive aquatic sports, at a public swimming pool shall possess current certificates from an American Red Cross or YMCA of the U.S.A. lifeguard training program, or have equivalent qualifications, as determined by the department. In addition, these persons shall be certified in standard first aid and cardiopulmonary resuscitation (CPR). All of these persons shall meet these qualifications by January 1, 1991. Persons who only disseminate written materials relating to water safety, are not persons providing aquatic instruction within the meaning of this section.

The requirements of this section shall be waived under either of the following circumstances: (a) when one or more aquatic instructors possessing the current certificates from an American Red Cross or YMCA of the U.S.A. lifeguard training program, or the equivalent, are in attendance continuously during periods of aquatic instruction, or (b) when one or more lifeguards meeting the requirements of Section 116028 are in attendance continuously during periods of aquatic instruction.

CHAPTER 480

An act to add Section 1186.5 to the Labor Code, relating to employment.

[Approved by Governor October 11, 2007. Filed with Secretary of State October 11, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 1186.5 is added to the Labor Code, to read:

1186.5. Notwithstanding any other provision of law, pharmacists engaged in the practice of pharmacy who are employed in the mercantile industry, as defined by Wage Order 7 of the Industrial Welfare Commission, shall be permitted to adopt alternative workweek schedules allowed by the provisions of Wage Order 4, including the provisions for alternative workweeks that can be adopted by employees working in the health care industry.

CHAPTER 481

An act to amend Section 2146 of, and to add Section 2148 to, the Elections Code, relating to voter registration.

[Approved by Governor October 11, 2007. Filed with Secretary of State October 11, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 2146 of the Elections Code is amended to read:

2146. (a) The Secretary of State shall annually provide every high school, community college, and California State University and University of California campus with voter registration forms. The number of forms shall be consistent with the number of students enrolled at each school who are of voting age or will be of voting age by the end of the year. The Secretary of State shall provide additional forms to any school, free of charge, if so requested by a school.

(b) The Secretary of State shall provide a written notice with each registration form describing eligibility requirements and informing each student that he or she may return the completed form in person or by mail to the elections official of the county in which the student resides or to the Secretary of State.

(c) (1) (A) Every community college and California State University campus that operates an automated class registration system on or before January 1, 2008, shall, through an automated program, in coordination with the Secretary of State, permit students, during the class registration process, to elect to receive a voter registration form that is preprinted with personal information relevant to voter registration by January 1, 2010.

(B) Any community college or California State University campus that does not operate an automated class registration system on or before January 1, 2008, shall, within two years of implementing an automated class registration system, through an automated program in coordination with the Secretary of State, permit students, during the class registration process, to elect to receive a voter registration form that is preprinted with personal information relevant to voter registration.

(2) As soon as a community college or California State University or University of California campus complies with paragraph (1), the Secretary of State may continue, at his or her discretion, to provide the campus with voter registration forms unless the campus requests not to receive the voter registration forms.

(3) The University of California is encouraged to comply with this subdivision.

(d) The Secretary of State shall submit to the Legislature, on or before January 1 of each year, a report on its student voter registration efforts pursuant to this article. This report shall include estimates as to how many voter registration forms were sent to high schools, community colleges, and California State University and University of California campuses, how many voter registration forms were returned, and how many voter registration forms were sent out to students through the automated program described in subdivision (c).

(e) It is the intent of the Legislature that every high school and college student receive a voter registration card with his or her diploma. It is also the intent of the Legislature that every school do all in its power to ensure that students are provided the opportunity and means to register to vote. This may include providing voter registration forms at the start of the school year, including voter registration forms with orientation materials, placing voter registration forms at central locations, including voter registration forms with graduation materials.

SEC. 2. Section 2148 is added to the Elections Code, to read:

2148. (a) Every high school, community college, and California State University campus shall designate a contact person and provide his or her address, telephone number, and e-mail address, when possible, to the Secretary of State for the Secretary of State to contact in order to

facilitate the distribution of voter registration cards, as provided under this article.

(b) The University of California is encouraged to comply with this subdivision.

SEC. 3. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

CHAPTER 482

An act to amend Sections 515.5 and 1773.9 of the Labor Code, relating to employment.

[Approved by Governor October 11, 2007. Filed with Secretary of State October 11, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 515.5 of the Labor Code is amended to read:

515.5. (a) Except as provided in subdivision (b), an employee in the computer software field shall be exempt from the requirement that an overtime rate of compensation be paid pursuant to Section 510 if all of the following apply:

(1) The employee is primarily engaged in work that is intellectual or creative and that requires the exercise of discretion and independent judgment.

(2) The employee is primarily engaged in duties that consist of one or more of the following:

(A) The application of systems analysis techniques and procedures, including consulting with users, to determine hardware, software, or system functional specifications.

(B) The design, development, documentation, analysis, creation, testing, or modification of computer systems or programs, including prototypes, based on and related to user or system design specifications.

(C) The documentation, testing, creation, or modification of computer programs related to the design of software or hardware for computer operating systems.

(3) The employee is highly skilled and is proficient in the theoretical and practical application of highly specialized information to computer

systems analysis, programming, and software engineering. A job title shall not be determinative of the applicability of this exemption.

(4) The employee's hourly rate of pay is not less than thirty-six dollars ($36.00), or the annualized full-time salary equivalent of that rate, provided that all other requirements of this section are met and that in each workweek the employee receives not less than thirty-six dollars ($36.00) per hour worked. The Division of Labor Statistics and Research shall adjust this pay rate on October 1 of each year to be effective on January 1 of the following year by an amount equal to the percentage increase in the California Consumer Price Index for Urban Wage Earners and Clerical Workers.

(b) The exemption provided in subdivision (a) does not apply to an employee if any of the following apply:

(1) The employee is a trainee or employee in an entry-level position who is learning to become proficient in the theoretical and practical application of highly specialized information to computer systems analysis, programming, and software engineering.

(2) The employee is in a computer-related occupation but has not attained the level of skill and expertise necessary to work independently and without close supervision.

(3) The employee is engaged in the operation of computers or in the manufacture, repair, or maintenance of computer hardware and related equipment.

(4) The employee is an engineer, drafter, machinist, or other professional whose work is highly dependent upon or facilitated by the use of computers and computer software programs and who is skilled in computer-aided design software, including CAD/CAM, but who is not in a computer systems analysis or programming occupation.

(5) The employee is a writer engaged in writing material, including box labels, product descriptions, documentation, promotional material, setup and installation instructions, and other similar written information, either for print or for onscreen media or who writes or provides content material intended to be read by customers, subscribers, or visitors to computer-related media such as the World Wide Web or CD-ROMs.

(6) The employee is engaged in any of the activities set forth in subdivision (a) for the purpose of creating imagery for effects used in the motion picture, television, or theatrical industry.

SEC. 2. Section 1773.9 of the Labor Code is amended to read:

1773.9. (a) The Director of Industrial Relations shall use the methodology set forth in subdivision (b) to determine the general prevailing rate of per diem wages in the locality in which the public work is to be performed.

(b) The general prevailing rate of per diem wages includes all of the following:

(1) The basic hourly wage rate being paid to a majority of workers engaged in the particular craft, classification, or type of work within the locality and in the nearest labor market area, if a majority of the workers is paid at a single rate. If no single rate is being paid to a majority of the workers, then the single rate being paid to the greatest number of workers, or modal rate, is prevailing. If a modal rate cannot be determined, then the director shall establish an alternative rate, consistent with the methodology for determining the modal rate, by considering the appropriate collective bargaining agreements, federal rates, rates in the nearest labor market area, or other data such as wage survey data.

(2) Other employer payments included in per diem wages pursuant to Section 1773.1 and as included as part of the total hourly wage rate from which the basic hourly wage rate was derived. In the event the total hourly wage rate does not include any employer payments, the director shall establish a prevailing employer payment rate by the same procedure set forth in paragraph (1).

(3) The rate for holiday and overtime work shall be those rates specified in the collective bargaining agreement when the basic hourly rate is based on a collective bargaining agreement rate. In the event the basic hourly rate is not based on a collective bargaining agreement, the rate for holidays and overtime work, if any, included with the prevailing basic hourly rate of pay shall be prevailing.

(c) (1) If the director determines that the general prevailing rate of per diem wages is the rate established by a collective bargaining agreement, and that the collective bargaining agreement contains definite and predetermined changes during its term that will affect the rate adopted, the director shall incorporate those changes into the determination. Predetermined changes that are rescinded prior to their effective date shall not be enforced.

(2) When the director determines that there is a definite and predetermined change in the general prevailing rate of per diem wages as described in paragraph (1), but has not published, at the time of the effective date of the predetermined change, the allocation of the predetermined change as between the basic hourly wage and other employer payments included in per diem wages pursuant to Section 1773.1, a contractor or subcontractor may allocate payments of not less than the amount of the definite and predetermined change to either the basic hourly wage or other employer payments included in per diem wages for up to 60 days following the director's publication of the specific allocation of the predetermined change.

(3) When the director determines that there is a definite and predetermined change in the general prevailing rate of per diem wages as described in paragraph (1), but the allocation of that predetermined change as between the basic hourly wage and other employer payments included in per diem wages pursuant to Section 1773.1 is subsequently altered by the parties to a collective bargaining agreement described in paragraph (1), a contractor or subcontractor may allocate payments of not less than the amount of the definite and predetermined change in accordance with either the originally published allocation or the allocation as altered in the collective bargaining agreement.

CHAPTER 483

An act to amend Sections 650, 1246, 1265.1, 2541.3, and 2541.6 of the Business and Professions Code, to amend Sections 49452.8 and 51796 of the Education Code, to amend Sections 298.5, 307, 355, 358, and 422 of the Family Code, to amend Sections 1322, 8592.1, and 8593.6 of the Government Code, to amend Sections 1266.9, 1522.08, 1575.7, 1728.1, 1797.153, 100105, 100922, 101040, 101080, 105440, 109277, 110242, 110806, 113763, 113774, 115730, 123371, 123485, 124250, 124900, 125002, 125118, 125335, 125342, 127446, 130501, and 131006 of, and to add Section 131071 to, the Health and Safety Code, to amend Sections 12693.325, 12693.98, and 12693.98a of the Insurance Code, to amend Sections 830.3, 1203.097, 7501, 7502, 7510, and 13823.15 of the Penal Code, to amend Sections 13557 and 32601 of the Water Code, to amend Sections 14043.46, 14087.54, 15904, and 16953.3 of the Welfare and Institutions Code, and to amend Section 2 of Chapter 610 of the Statutes of 2006, relating to health.

[Approved by Governor October 11, 2007. Filed with Secretary of State October 11, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 650 of the Business and Professions Code is amended to read:

650. (a) Except as provided in Chapter 2.3 (commencing with Section 1400) of Division 2 of the Health and Safety Code, the offer, delivery, receipt, or acceptance by any person licensed under this division or the Chiropractic Initiative Act of any rebate, refund, commission, preference, patronage dividend, discount, or other consideration, whether in the form of money or otherwise, as compensation or inducement for referring

patients, clients, or customers to any person, irrespective of any membership, proprietary interest or coownership in or with any person to whom these patients, clients, or customers are referred is unlawful.

(b) The payment or receipt of consideration for services other than the referral of patients which is based on a percentage of gross revenue or similar type of contractual arrangement shall not be unlawful if the consideration is commensurate with the value of the services furnished or with the fair rental value of any premises or equipment leased or provided by the recipient to the payer.

(c) The offer, delivery, receipt, or acceptance of any consideration between a federally-qualified health center, as defined in Section 1396d(*l*)(2)(B) of Title 42 of the United States Code, and any individual or entity providing goods, items, services, donations, loans, or a combination thereof, to the health center entity pursuant to a contract, lease, grant, loan, or other agreement, if that agreement contributes to the ability of the health center entity to maintain or increase the availability, or enhance the quality, of services provided to a medically underserved population served by the health center, shall be permitted only to the extent sanctioned or permitted by federal law.

(d) Except as provided in Chapter 2.3 (commencing with Section 1400) of Division 2 of the Health and Safety Code and in Sections 654.1 and 654.2, it shall not be unlawful for any person licensed under this division to refer a person to any laboratory, pharmacy, clinic (including entities exempt from licensure pursuant to Section 1206 of the Health and Safety Code), or health care facility solely because the licensee has a proprietary interest or coownership in the laboratory, pharmacy, clinic, or health care facility; provided, however, that the licensee's return on investment for that proprietary interest or coownership shall be based upon the amount of the capital investment or proportional ownership of the licensee which ownership interest is not based on the number or value of any patients referred. Any referral excepted under this section shall be unlawful if the prosecutor proves that there was no valid medical need for the referral.

(e) (1) Except as provided in Chapter 2.3 (commencing with Section 1400) of Division 2 of the Health and Safety Code and in Sections 654.1 and 654.2, it shall not be unlawful to provide nonmonetary remuneration, in the form of hardware, software, or information technology and training services, necessary and used solely to receive and transmit electronic prescription information in accordance with the standards set forth in Section 1860D-4(e) of the Medicare Prescription Drug, Improvement and Modernization Act of 2003 (42 U.S.C. Sec. 1395w-104) in the following situations:

(A) In the case of a hospital, by the hospital to members of its medical staff.

(B) In the case of a group medical practice, by the practice to prescribing health care professionals that are members of the practice.

(C) In the case of Medicare prescription drug plan sponsors or Medicare Advantage organizations, by the sponsor or organization to pharmacists and pharmacies participating in the network of the sponsor or organization and to prescribing health care professionals.

(2) The exceptions set forth in this subdivision are adopted to conform state law with the provisions of Section 1860D-4(e)(6) of the Medicare Prescription Drug, Improvement and Modernization Act of 2003 (42 U.S.C. Sec. 1395w-104) and are limited to drugs covered under Part D of the federal Medicare Program that are prescribed to Part D eligible individuals (42 U.S.C. Sec. 1395w-101).

(3) The exceptions set forth in this subdivision shall not be operative until the regulations required to be adopted by the Secretary of the United States Department of Health and Human Services, pursuant to Section 1860D-4(e) of the Medicare Prescription Drug, Improvement and Modernization Act of 2003 (42 U.S.C. Sec. 1395W-104) are effective. If the California Health and Human Services Agency determines that regulations are necessary to ensure that implementation of the provisions of paragraph (1) is consistent with the regulations adopted by the Secretary of the United States Department of Health and Human Services, it shall adopt emergency regulations to that effect.

(f) "Health care facility" means a general acute care hospital, acute psychiatric hospital, skilled nursing facility, intermediate care facility, and any other health facility licensed by the State Department of Public Health under Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code.

(g) A violation of this section is a public offense and is punishable upon a first conviction by imprisonment in the county jail for not more than one year, or by imprisonment in the state prison, or by a fine not exceeding fifty thousand dollars ($50,000), or by both that imprisonment and fine. A second or subsequent conviction is punishable by imprisonment in the state prison or by imprisonment in the state prison and a fine of fifty thousand dollars ($50,000).

SEC. 2. Section 1246 of the Business and Professions Code is amended to read:

1246. (a) Except as provided in subdivisions (b) and (c), and in Section 23158 of the Vehicle Code, an unlicensed person employed by a licensed clinical laboratory may perform venipuncture or skin puncture for the purpose of withdrawing blood or for clinical laboratory test

purposes upon specific authorization from a licensed physician and surgeon provided that he or she meets both of the following requirements:

(1) He or she works under the supervision of a person licensed under this chapter or of a licensed physician and surgeon or of a licensed registered nurse. A person licensed under this chapter, a licensed physician or surgeon, or a registered nurse shall be physically available to be summoned to the scene of the venipuncture within five minutes during the performance of those procedures.

(2) He or she has been trained by a licensed physician and surgeon or by a clinical laboratory bioanalyst in the proper procedure to be employed when withdrawing blood in accordance with training requirements established by the State Department of Public Health and has a statement signed by the instructing physician and surgeon or by the instructing clinical laboratory bioanalyst that the training has been successfully completed.

(b) (1) On and after the effective date of the regulations specified in paragraph (2), any unlicensed person employed by a clinical laboratory performing the duties described in this section shall possess a valid and current certification as a certified phlebotomy technician issued by the department. However, an unlicensed person employed by a clinical laboratory to perform these duties pursuant to subdivision (a) on that date shall have until January 1, 2007, to comply with this requirement, provided that he or she has submitted the application to the department on or before July 1, 2006.

(2) The department shall adopt regulations for certification by January 1, 2001, as a certified phlebotomy technician that shall include all of the following:

(A) The applicant shall hold a valid, current certification as a phlebotomist issued by a national accreditation agency approved by the department, and shall submit proof of that certification when applying for certification pursuant to this section.

(B) The applicant shall complete education, training, and experience requirements as specified by regulations that shall include, but not be limited to, the following:

(i) At least 40 hours of didactic instruction.

(ii) At least 40 hours of practical instruction.

(iii) At least 50 successful venipunctures.

However, an applicant who has been performing these duties pursuant to subdivision (a) may be exempted from the requirements specified in clauses (ii) and (iii), and from 20 hours of the 40 hours of didactic instruction as specified in clause (i), if he or she has at least 1,040 hours of work experience, as specified in regulations adopted by the department.

It is the intent of the Legislature to permit persons performing these duties pursuant to subdivision (a) to use educational leave provided by their employers for purposes of meeting the requirements of this section.

(3) Each certified phlebotomy technician shall complete at least three hours per year or six hours every two years of continuing education or training. The department shall consider a variety of programs in determining the programs that meet the continuing education or training requirement.

(4) He or she has been found to be competent in phlebotomy by a licensed physician and surgeon or person licensed pursuant to this chapter.

(5) He or she works under the supervision of a licensed physician and surgeon, licensed registered nurse, or person licensed under this chapter, or the designee of a licensed physician and surgeon or the designee of a person licensed under this chapter.

(6) The department shall adopt regulations establishing standards for approving training programs designed to prepare applicants for certification pursuant to this section. The standards shall ensure that these programs meet the state's minimum education and training requirements for comparable programs.

(7) The department shall adopt regulations establishing standards for approving national accreditation agencies to administer certification examinations and tests pursuant to this section.

(8) The department shall charge fees for application for and renewal of the certificate authorized by this section of no more than twenty-five dollars ($25).

(c) (1) (A) A certified phlebotomy technician may perform venipuncture or skin puncture to obtain a specimen for nondiagnostic tests assessing the health of an individual, for insurance purposes, provided that the technician works under the general supervision of a physician and surgeon licensed under Chapter 5 (commencing with Section 2000). The physician and surgeon may delegate the general supervision duties to a registered nurse or a person licensed under this chapter, but shall remain responsible for ensuring that all those duties and responsibilities are properly performed. The physician and surgeon shall make available to the department, upon request, records maintained documenting when a certified phlebotomy technician has performed venipuncture or skin puncture pursuant to this paragraph.

(B) As used in this paragraph, general supervision requires the supervisor of the technician to determine that the technician is competent to perform venipuncture or skin puncture prior to the technician's first blood withdrawal, and on an annual basis thereafter. The supervisor is also required to determine, on a monthly basis, that the technician

complies with appropriate venipuncture or skin puncture policies and procedures approved by the medical director and required by state regulations. The supervisor, or another designated licensed physician and surgeon, registered nurse, or person licensed under this chapter, shall be available for consultation with the technician, either in person or through telephonic or electronic means, at the time of blood withdrawal.

(2) (A) Notwithstanding any other provision of law, a person who has been issued a certified phlebotomy technician certificate pursuant to this section may draw blood following policies and procedures approved by a physician and surgeon licensed under Chapter 5 (commencing with Section 2000), appropriate to the location where the blood is being drawn and in accordance with state regulations. The blood collection shall be done at the request and in the presence of a peace officer for forensic purposes in a jail, law enforcement facility, or medical facility, with general supervision.

(B) As used in this paragraph, "general supervision" means that the supervisor of the technician is licensed under this code as a physician and surgeon, physician assistant, clinical laboratory bioanalyst, registered nurse, or clinical laboratory scientist, and reviews the competency of the technician before the technician may perform blood withdrawals without direct supervision, and on an annual basis thereafter. The supervisor is also required to review the work of the technician at least once a month to ensure compliance with venipuncture policies, procedures, and regulations. The supervisor, or another person licensed under this code as a physician and surgeon, physician assistant, clinical laboratory bioanalyst, registered nurse, or clinical laboratory scientist, shall be accessible to the location where the technician is working to provide onsite, telephone, or electronic consultation, within 30 minutes when needed.

(d) The department may adopt regulations providing for the issuance of a certificate to an unlicensed person employed by a clinical laboratory authorizing only the performance of skin punctures for test purposes.

SEC. 3. Section 1265.1 of the Business and Professions Code is amended to read:

1265.1. (a) A primary care clinic that submits an application to the State Department of Public Health for clinic licensure pursuant to subdivision (a) of Section 1204 of the Health and Safety Code may submit prior to, or concurrent therewith, an application for licensure or registration of a clinical laboratory to be operated by the clinic.

(b) An application for licensure of a clinical laboratory submitted pursuant to this section shall be subject to all applicable laboratory licensing laws and regulations, including, but not limited to, any statutory

or regulatory timelines and processes for review of a clinical laboratory application.

SEC. 4. Section 2541.3 of the Business and Professions Code is amended to read:

2541.3. (a) The State Department of Public Health, the State Board of Optometry and the Division of Licensing and Division of Medical Quality of the Medical Board of California shall prepare and adopt quality standards and adopt regulations relating to prescription ophthalmic devices, including, but not limited to, lenses, frames, and contact lenses. In promulgating these rules and regulations, the department and the boards shall adopt the current standards of the American National Standards Institute regarding ophthalmic materials. Nothing in this section shall prohibit the department and the boards from jointly adopting subsequent standards that are equivalent or more stringent than the current standards of the American National Standards Institute regarding ophthalmic materials.

(b) No individual or group that deals with prescription ophthalmic devices, including, but not limited to, distributors, dispensers, manufacturers, laboratories, optometrists, or ophthalmologists shall sell, dispense, or furnish any prescription ophthalmic device that does not meet the minimum standards set by the State Department of Public Health, the State Board of Optometry, or the Division of Licensing and Division of Medical Quality of the Medical Board of California.

(c) Any violation of the regulations adopted by the State Department of Public Health, the State Board of Optometry, or the Division of Licensing and Division of Medical Quality of the Medical Board of California pursuant to this section shall be a misdemeanor.

(d) Any optometrist, ophthalmologist, or dispensing optician who violates the regulations adopted by the State Department of Public Health, the State Board of Optometry, or the Division of Licensing and Division of Medical Quality of the Medical Board of California pursuant to this section shall be subject to disciplinary action by his or her licensing board.

(e) The State Board of Optometry or the Division of Licensing and Division of Medical Quality of the Medical Board of California may send any prescription ophthalmic device to the State Department of Public Health for testing as to whether or not the device meets established standards adopted pursuant to this section, which testing shall take precedence over any other prescription ophthalmic device testing being conducted by the department. The department may conduct the testing in its own facilities or may contract with any other facility to conduct the testing.

SEC. 5. Section 2541.6 of the Business and Professions Code is amended to read:

2541.6. No prescription ophthalmic device that does not meet the standards adopted by the State Department of Public Health, the State Board of Optometry, or the Division of Licensing and Division of Medical Quality of the Medical Board of California under Section 2541.3 shall be purchased with state funds.

SEC. 6. Section 49452.8 of the Education Code is amended to read:

49452.8. (a) A pupil, while enrolled in kindergarten in a public school, or while enrolled in first grade in a public school if the pupil was not previously enrolled in kindergarten in a public school, shall, no later than May 31 of the school year, present proof of having received an oral health assessment by a licensed dentist, or other licensed or registered dental health professional operating within his or her scope of practice, that was performed no earlier than 12 months prior to the date of the initial enrollment of the pupil.

(b) The parent or legal guardian of a pupil may be excused from complying with subdivision (a) by indicating on the form described in subdivision (d) that the oral health assessment could not be completed because of one or more of the reasons provided in subparagraphs (A) to (C), inclusive, of paragraph (2) of subdivision (d).

(c) A public school shall notify the parent or legal guardian of a pupil described in subdivision (a) concerning the assessment requirement. The notification shall, at a minimum, consist of a letter that includes all of the following:

(1) An explanation of the administrative requirements of this section.

(2) Information on the importance of primary teeth.

(3) Information on the importance of oral health to overall health and to learning.

(4) A toll-free telephone number to request an application for Healthy Families, Medi-Cal, or other government-subsidized health insurance programs.

(5) Contact information for county public health departments.

(6) A statement of privacy applicable under state and federal laws and regulations.

(d) In order to ensure uniform data collection, the department, in consultation with interested persons, shall develop and make available on the Internet Web site of the department, a standardized notification form as specified in subdivision (c) that shall be used by each school district. The standardized form shall include all of the following:

(1) A section that can be used by the licensed dentist or other licensed or registered dental health professional performing the assessment to record information that is consistent with the information collected on

the oral health assessment form developed by the Association of State and Territorial Dental Directors.

(2) A section in which the parent or legal guardian of a pupil can indicate the reason why an assessment could not be completed by marking the box next to the appropriate reason. The reasons for not completing an assessment shall include all of the following:

(A) Completion of an assessment poses an undue financial burden on the parent or legal guardian.

(B) Lack of access by the parent or legal guardian to a licensed dentist or other licensed or registered dental health professional.

(C) The parent or legal guardian does not consent to an assessment.

(e) Upon receiving completed assessments, all school districts shall, by December 31 of each year, submit a report to the county office of education of the county in which the school district is located. The report shall include all of the following:

(1) The total number of pupils in the district, by school, who are subject to the requirement to present proof of having received an oral health assessment pursuant to subdivision (a).

(2) The total number of pupils described in paragraph (1) who present proof of an assessment.

(3) The total number of pupils described in paragraph (1) who could not complete an assessment due to financial burden.

(4) The total number of pupils described in paragraph (1) who could not complete an assessment due to lack of access to a licensed dentist or other licensed or registered dental health professional.

(5) The total number of pupils described in paragraph (1) who could not complete an assessment because their parents or legal guardians did not consent to their child receiving the assessment.

(6) The total number of pupils described in paragraph (1) who are assessed and found to have untreated decay.

(7) The total number of pupils described in paragraph (1) who did not return either the assessment form or the waiver request to the school.

(f) Each county office of education shall maintain the data described in subdivision (e) in a manner that allows the county office to release it upon request.

(g) This section does not prohibit any of the following:

(1) County offices of education from sharing aggregate data collected pursuant to this section with other governmental agencies, philanthropic organizations, or other nonprofit organizations for the purpose of data analysis.

(2) Use of assessment data that is compliant with the federal Health Insurance Portability and Accountability Act of 1996 (P.L. 104-191) for

purposes of conducting research and analysis on the oral health status of public school pupils in California.

(h) This section does not preclude a school district or county office of education from developing a schoolsite-based oral health assessment program to meet the requirements of this section.

(i) The Office of Oral Health of the Chronic Disease Control Branch of the State Department of Public Health shall conduct an evaluation of the requirements imposed by this section and prepare and submit a report to the Legislature by January 1, 2010, that discusses any improvements in the oral health of children resulting from the imposition of those requirements. The Office of Oral Health may receive private funds and contract with the University of California to fulfill the duties described in this subdivision.

SEC. 7. Section 51796 of the Education Code is amended to read:

51796. (a) The Instructional School Gardens Program is hereby established for the promotion, creation, and support of instructional school gardens through the allocation of grants, and through technical assistance provided, to school districts, charter schools, or county offices of education. The program shall be administered by the State Department of Education.

(b) The Superintendent shall convene an interagency working group on instructional school gardens that shall include, but not be limited to, representatives of the State Department of Education, the Department of Food and Agriculture, the State Department of Public Health, and the California Integrated Waste Management Board. The working group shall advise the Superintendent on all of the following:

(1) Effective and efficient means of encouraging school districts, charter schools, and county offices of education to develop and maintain a quality instructional school garden program.

(2) The availability of state and nonstate resources and technical assistance to help school districts, charter schools, and county offices of education in establishing and maintaining instructional school gardens.

(3) Public and private partnerships available to assist school districts, charter schools, and county offices of education in using instructional school gardens to complement the academic program of participating schools.

(c) The Superintendent may establish an advisory group involving other agencies and groups with expertise in instructional school gardens, including, but not limited to, the California Environmental Education Interagency Network. The purpose of the advisory group is to support program efforts through technical assistance, resources, in-kind support, site visits, and other related efforts.

(d) (1) The Superintendent shall use existing resources to comply with subdivisions (b) and (c).

(2) The Department of Food and Agriculture, the State Department of Public Health, and the California Integrated Waste Management Board shall use existing resources to comply with subdivision (b).

SEC. 8. Section 298.5 of the Family Code is amended to read:

298.5. (a) Two persons desiring to become domestic partners may complete and file a Declaration of Domestic Partnership with the Secretary of State.

(b) The Secretary of State shall register the Declaration of Domestic Partnership in a registry for those partnerships, and shall return a copy of the registered form and a Certificate of Registered Domestic Partnership, and except for those opposite sex domestic partners who meet the qualifications described in subparagraph (B) of paragraph (5) of subdivision (b) of Section 297, a copy of the brochure that is made available to county clerks and the Secretary of State by the State Department of Public Health pursuant to Section 358 and distributed to individuals receiving a confidential marriage license pursuant to Section 503, to the domestic partners at the mailing address provided by the domestic partners.

(c) No person who has filed a Declaration of Domestic Partnership may file a new Declaration of Domestic Partnership or enter a civil marriage with someone other than their registered domestic partner unless the most recent domestic partnership has been terminated or a final judgment of dissolution or nullity of the most recent domestic partnership has been entered. This prohibition does not apply if the previous domestic partnership ended because one of the partners died.

(d) When funding allows, the Secretary of State shall print and make available upon request, pursuant to Section 358, a lesbian, gay, bisexual, and transgender specific domestic abuse brochure developed by the State Department of Public Health and made available to the Secretary of State to domestic partners who qualify pursuant to Section 297.

SEC. 9. Section 307 of the Family Code, as amended by Section 5 of Chapter 816 of the Statutes of 2006, is amended to read:

307. This division, so far as it relates to the solemnizing of marriage, is not applicable to members of a particular religious society or denomination not having clergy for the purpose of solemnizing marriage or entering the marriage relation, if all of the following requirements are met:

(a) The parties to the marriage sign and endorse on the form prescribed by the State Department of Public Health, showing all of the following:

(1) The fact, time, and place of entering into the marriage.

(2) The printed names, signatures, and mailing addresses of two witnesses to the ceremony.

(3) The religious society or denomination of the parties to the marriage, and that the marriage was entered into in accordance with the rules and customs of that religious society or denomination. The statement of the parties to the marriage that the marriage was entered into in accordance with the rules and customs of the religious society or denomination is conclusively presumed to be true.

(b) The License and Certificate of Non-Clergy Marriage, endorsed pursuant to subdivision (a), is returned to the county recorder of the county in which the license was issued within 10 days after the ceremony.

SEC. 10. Section 355 of the Family Code, as amended by Section 11 of Chapter 816 of the Statutes of 2006, is amended to read:

355. (a) The forms for the marriage license shall be prescribed by the State Department of Public Health, and shall be adapted to set forth the facts required in this part.

(b) The marriage license shall include an affidavit, which the applicants shall sign, affirming that they have received the brochure provided for in Section 358. If the marriage is to be entered into pursuant to subdivision (b) of Section 420, the attorney in fact shall sign the affidavit on behalf of the applicant who is overseas.

SEC. 11. Section 358 of the Family Code is amended to read:

358. (a) The State Department of Public Health shall prepare and publish a brochure that shall contain the following:

(1) Information concerning the possibilities of genetic defects and diseases and a listing of centers available for the testing and treatment of genetic defects and diseases.

(2) Information concerning acquired immunodeficiency syndrome (AIDS) and the availability of testing for antibodies to the probable causative agent of AIDS.

(3) Information concerning domestic violence, including resources available to victims and a statement that physical, emotional, psychological, and sexual abuse, and assault and battery, are against the law.

(b) The State Department of Public Health shall make the brochures available to county clerks who shall distribute a copy of the brochure to each applicant for a marriage license, including applicants for a confidential marriage license and notaries public receiving a confidential marriage license pursuant to Section 503. The department shall also make the brochure available to the Secretary of State who shall distribute a copy of the brochure to persons who qualify as domestic partners pursuant to Section 297.

(c) The department shall prepare a lesbian, gay, bisexual, and transgender specific domestic abuse brochure and make the brochure available to the Secretary of State who shall print and make available the brochure, as funding allows, pursuant to Section 298.5.

(d) Each notary public issuing a confidential marriage license under Section 503 shall distribute a copy of the brochure to the applicants for a confidential marriage license.

(e) To the extent possible, the State Department of Public Health shall seek to combine in a single brochure all statutorily required information for marriage license applicants.

SEC. 12. Section 422 of the Family Code, as amended by Section 18 of Chapter 816 of the Statutes of 2006, is amended to read:

422. The person solemnizing a marriage shall, sign and print or type upon the marriage license a statement, in the form prescribed by the State Department of Public Health, showing all of the following:

(a) The fact, date (month, day, year), and place (city and county) of solemnization.

(b) The printed names, signatures, and mailing addresses of at least one, and no more than two, witnesses to the ceremony.

(c) The official position of the person solemnizing the marriage, or of the denomination of which that person is a priest, minister, rabbi, or other authorized person of any religious denomination.

(d) The person solemnizing the marriage shall also type or print his or her name and mailing address.

SEC. 12.5. Section 1322 of the Government Code is amended to read:

1322. In addition to any other statutory provisions requiring confirmation by the Senate of officers appointed by the Governor, the appointments by the Governor of the following officers and the appointments by him or her to the listed boards and commissions are subject to confirmation by the Senate:

(1) California Horse Racing Board.
(2) Court Reporters Board of California.
(3) Chief, Division of Occupational Safety and Health.
(4) Chief, Division of Labor Standards Enforcement.
(5) Commissioner of Corporations.
(6) Contractors State License Board.
(7) Director of Fish and Game.
(8) State Director of Health Care Services.
(9) Chief Deputy, State Department of Health Care Services.
(10) Real Estate Commissioner.
(11) State Athletic Commissioner.
(12) State Board of Barbering and Cosmetology Examiners.

(13) State Librarian.
(14) Director of Social Services.
(15) Chief Deputy, State Department of Social Services.
(16) Director of Mental Health.
(17) Chief Deputy, State Department of Mental Health.
(18) Director of Developmental Services.
(19) Chief Deputy, State Department of Developmental Services.
(20) Director of Alcohol and Drug Abuse.
(21) Director of Rehabilitation.
(22) Chief Deputy, Department of Rehabilitation.
(23) Director of the Office of Statewide Health Planning and Development.
(24) Deputy, Health and Welfare Agency.
(25) Director, Department of Managed Health Care.
(26) Patient Advocate, Department of Managed Health Care.
(27) State Public Health Officer, State Department of Public Health.
(28) Chief Deputy, State Department of Public Health.

SEC. 13. Section 8592.1 of the Government Code is amended to read:

8592.1. For purposes of this article, the following terms have the following meanings:

(a) "Backward compatibility" means that the equipment is able to function with older, existing equipment.

(b) "Committee" means the Public Safety Radio Strategic Planning Committee, which was established in December 1994 in recognition of the need to improve existing public radio systems and to develop interoperability among public safety departments, and between state public safety departments and local or federal entities and which consists of representatives of the following state entities:

(1) The Office of Emergency Services, who shall serve as chairperson.
(2) The California Highway Patrol.
(3) The Department of Transportation.
(4) The Department of Corrections and Rehabilitation.
(5) The Department of Parks and Recreation.
(6) The Department of Fish and Game.
(7) The Department of Forestry and Fire Protection.
(8) The Department of Justice.
(9) The Department of Water Resources.
(10) The State Department of Public Health.
(11) The Emergency Medical Services Authority.
(12) The Department of General Services.
(13) The Office of Homeland Security.
(14) The Military Department.

(15) Department of Finance.

(c) "First response agencies" means public agencies that, in the early states of an incident, are responsible for, among other things, the protection and preservation of life, property, evidence, and the environment, including, but not limited to, state fire agencies, state and local emergency medical services agencies, local sheriffs' departments, municipal police departments, county and city fire departments, and police and fire protection districts.

(d) "Nonproprietary equipment or systems" means equipment or systems that are able to function with another manufacturer's equipment or system regardless of type or design.

(e) "Open architecture" means a system that can accommodate equipment from various vendors because it is not a proprietary system.

(f) "Public safety radio subscriber" means the ultimate end user. Subscribers include individuals or organizations, including, for example, local police departments, fire departments, and other operators of a public safety radio system. Typical subscriber equipment includes end instruments, including mobile radios, hand-held radios, mobile repeaters, fixed repeaters, transmitters, or receivers that are interconnected to utilize assigned public safety communications frequencies.

(g) "Public safety spectrum" means the spectrum allocated by the Federal Communications Commission for operation of interoperable and general use radio communication systems for public safety purposes within the state.

SEC. 14. Section 8593.6 of the Government Code is amended to read:

8593.6. (a) No later than six months after securing funding for the purposes of this section, the Director of the Office of Emergency Services shall convene a working group for the purpose of assessing existing and future technologies available in the public and private sectors for the expansion of transmission of emergency alerts to the public through a public-private partnership. The working group shall advise the director and assist in the development of policies, procedures, and protocols that will lay the framework for an improved warning system for the public.

(b) (1) The working group shall consist of the following membership, to be appointed by the director:

(A) A representative of the Office of Homeland Security.

(B) A representative of the Attorney General's office.

(C) A representative of the State Department of Public Health.

(D) A representative of the State Emergency Communications Committee.

(E) A representative of the Los Angeles County Office of Emergency Management, at the option of that agency.

(F) A representative or representatives of local government, at the option of the local government or governments.

(G) Representatives of the private sector who possess technology, experience, or insight that will aid in the development of a public-private partnership to expand an alert system to the public, including, but not limited to, representatives of providers of mass communication systems, first responders, and broadcasters.

(H) Additional representatives of any public or private entity as deemed appropriate by the Director of the Office of Emergency Services.

(2) In performing its duties, the working group shall consult with the Federal Communications Commission, and with respect to grants and fiscal matters, the Office of Homeland Security.

(c) The working group shall consider and make recommendations with respect to all of the following:

(1) Private and public programs, including pilot projects that attempt to integrate a public-private partnership to expand an alert system.

(2) Protocols, including formats, source or originator identification, threat severity, hazard description, and response requirements or recommendations, for alerts to be transmitted via an alert system that ensures that alerts are capable of being utilized across the broadest variety of communication technologies, at state and local levels.

(3) Protocols and guidelines to prioritize assurance of the greatest level of interoperability for first responders and families of first responders.

(4) Procedures for verifying, initiating, modifying, and canceling alerts transmitted via an alert system.

(5) Guidelines for the technical capabilities of an alert system.

(6) Guidelines for technical capability that provides for the priority transmission of alerts.

(7) Guidelines for other capabilities of an alert system.

(8) Standards for equipment and technologies used by an alert system.

(9) Cost estimates.

(10) Standards and protocols in accordance with, or in anticipation of, Federal Communications Commission requirements and federal statutes or regulations.

(11) Liability issues.

(d) The director shall report the findings and recommendations of the working group to the Legislature no later than one year from the date the working group is convened.

(e) The director may accept private monetary or in-kind donations for the purposes of this section.

SEC. 15. Section 1266.9 of the Health and Safety Code is amended to read:

1266.9. There is hereby created in the State Treasury the State Department of Public Health Licensing and Certification Program Fund. The revenue collected in accordance with Section 1266 shall be deposited in the State Department of Public Health Licensing and Certification Program Fund and shall be available for expenditure, upon appropriation by the Legislature, to support the department's Licensing and Certification Program's operation. Interest earned on the moneys in the fund shall be deposited as revenue into the fund to support the department's Licensing and Certification Program's operation.

SEC. 16. Section 1522.08 of the Health and Safety Code, as added by Section 6 of Chapter 902 of the Statutes of 2006, is amended to read:

1522.08. (a) In order to protect the health and safety of persons receiving care or services from individuals or facilities licensed or certified by the state, the California Department of Aging, State Department of Public Health, State Department of Alcohol and Drug Programs, State Department of Mental Health, State Department of Social Services, and the Emergency Medical Services Authority may share information with respect to applicants, licensees, certificates, or individuals who have been the subject of any administrative action resulting in the denial, suspension, probation, or revocation of a license, permit, or certificate, or in the exclusion of any person from a facility who is subject to a background check, as otherwise provided by law.

(b) The State Department of Social Services shall maintain a centralized system for the monitoring and tracking of final administrative actions, to be used by the California Department of Aging, State Department of Public Health, State Department of Alcohol and Drug Programs, State Department of Mental Health, State Department of Social Services, and the Emergency Medical Services Authority as a part of the background check process. The State Department of Social Services may charge a fee to departments under the jurisdiction of the California Health and Human Services Agency sufficient to cover the cost of providing those departments with the final administrative action specified in subdivision (a). To the extent that additional funds are needed for this purpose, implementation of this subdivision shall be contingent upon a specific appropriation provided for this purpose in the annual Budget Act.

(c) The State Department of Social Services, in consultation with the other departments under the jurisdiction of the California Health and Human Services Agency, may adopt regulations to implement this section.

(d) For the purposes of this section and Section 1499, "administrative action" means any proceeding initiated by the California Department of Aging, State Department of Public Health, State Department of Alcohol

and Drug Programs, State Department of Mental Health, State Department of Social Services, and the Emergency Medical Services Authority to determine the rights and duties of an applicant, licensee, or other individual or entity over which the department has jurisdiction. "Administrative action" may include, but is not limited to, action involving the denial of an application for, or the suspension or revocation of, any license, special permit, administrator certificate, criminal record clearance, or exemption.

SEC. 17. Section 1575.7 of the Health and Safety Code is amended to read:

1575.7. (a) (1) The State Department of Public Health, prior to issuing a new license, shall obtain a criminal record clearance for the administrator, program director, and fiscal officer of the proposed adult day health care center. The department shall obtain the criminal record clearances each time these positions are to be filled. When the conditions set forth in paragraph (3) of subdivision (a) of Section 1265.5, subparagraph (A) of paragraph (1) of subdivision (a) of Section 1338.5, and paragraph (1) of subdivision (a) of Section 1736.6 are met, the licensing and certification program shall issue an All Facilities Letter (AFL) informing facility licensees. After the AFL is issued, facilities shall not allow newly hired administrators, program directors, and fiscal officers to have direct contact with clients or residents of the facility prior to completion of the criminal record clearance. A criminal record clearance shall be complete when the department has obtained the person's criminal offender record information search response from the Department of Justice and has determined that the person is not disqualified from engaging in the activity for which clearance is required.

(2) The criminal record clearance shall require the administrator, program director, and fiscal officer to submit electronic fingerprint images to the Department of Justice.

(3) An applicant and any other person specified in this subdivision, as part of the background clearance process, shall provide information as to whether or not the person has any prior criminal convictions, has had any arrests within the past 12-month period, or has any active arrests, and shall certify that, to the best of his or her knowledge, the information provided is true. This requirement is not intended to duplicate existing requirements for individuals who are required to submit fingerprint images as part of a criminal background clearance process. Every applicant shall provide information on any prior administrative action taken against him or her by any federal, state, or local government agency and shall certify that, to the best of his or her knowledge, the information provided is true. An applicant or other person required to provide information pursuant to this section that knowingly or willfully makes

false statements, representations, or omissions may be subject to administrative action, including, but not limited to, denial of his or her application or exemption or revocation of any exemption previously granted.

(b) A past conviction of any crime, especially any crime involving misuse of funds or involving physical abuse shall, in the discretion of the department, be grounds for denial of the license, and shall be grounds to prohibit the person from providing services in an adult day health care center.

(c) Suspension of the applicant from the Medi-Cal program or prior violations of statutory provisions or regulations relating to licensure of a health facility, community care facility, or clinic shall also be grounds for a denial of licensure, where determined by the state department to indicate a substantial probability that the applicant will not comply with this chapter and regulations adopted hereunder.

(d) No applicant which is licensed as a health facility, community care facility, or clinic may be issued a license for an adult day health care center while there exists a subsisting, uncorrected violation of the statutes or regulations relating to such licensure.

(e) The department shall develop procedures to ensure that any licensee, direct care staff, or certificate holder for whom a criminal record has been obtained pursuant to this section or Section 1265.5 or 1736 shall not be required to obtain multiple criminal record clearances.

(f) Notwithstanding any other provision of law, the department may provide an individual with a copy of his or her state or federal level criminal offender record information search response as provided to that department by the Department of Justice if the department has denied a criminal background clearance based on this information and the individual makes a written request to the department for a copy specifying an address to which it is to be sent. The state or federal level criminal offender record information search response shall not be modified or altered from its form or content as provided by the Department of Justice and shall be provided to the address specified by the individual in his or her written request. The department shall retain a copy of the individual's written request and the response and date provided.

SEC. 18. Section 1728.1 of the Health and Safety Code is amended to read:

1728.1. (a) To qualify for a home health agency license, the following requirements shall be met:

(1) Every applicant shall satisfy the following conditions:

(A) Be of good moral character. If the applicant is a firm, association, organization, partnership, business trust, corporation, or company, all principal managing members thereof, and the person in charge of the

agency for which application for license is made, shall satisfy this requirement. If the applicant is a political subdivision of the state or other governmental agency, the person in charge of the agency for which application for license is made, shall satisfy this requirement.

(B) Possess and demonstrate the ability to comply with this chapter and the rules and regulations adopted under this chapter by the state department.

(C) File his or her application pursuant to and in full compliance with this chapter.

(2) (A) The following persons shall submit to the State Department of Public Health an application and shall submit electronic fingerprint images to the Department of Justice for the furnishing of the person's criminal record to the state department, at the person's expense as provided in subdivision (b), for the purpose of a criminal record review:

(i) The owner or owners of a private agency if the owners are individuals.

(ii) If the owner of a private agency is a corporation, partnership, or association, any person having a 10 percent or greater interest in that corporation, partnership, or association.

(iii) The administrator of a home health agency.

(B) When the conditions set forth in paragraph (3) of subdivision (a) of Section 1265.5, subparagraph (A) of paragraph (1) of subdivision (a) of Section 1338.5, and paragraph (1) of subdivision (a) of Section 1736.6 are met, the licensing and certification program shall issue an All Facilities Letter (AFL) informing facility licensees. After the AFL is issued, facilities must not allow newly hired administrators, program directors, and fiscal officers to have direct contact with clients or residents of the facility prior to completion of the criminal record clearance. A criminal record clearance shall be complete when the department has obtained the person's criminal offender record information search response from the Department of Justice and has determined that the person is not disqualified from engaging in the activity for which clearance is required.

(b) The persons specified in paragraph (2) of subdivision (a) shall be responsible for any costs associated with transmitting the electronic fingerprint images. The fee to cover the processing costs of the Department of Justice, not including the costs associated with capturing or transmitting the fingerprint images and related information, shall not exceed thirty-two dollars ($32) per submission.

(c) If the criminal record review conducted pursuant to paragraph (2) of subdivision (a) discloses a conviction for a felony or any crime that evidences an unfitness to provide home health services, the application for a license shall be denied or the person shall be prohibited from

providing service in the home health agency applying for a license. This subdivision shall not apply to deny a license or prohibit the provision of service if the person presents evidence satisfactory to the state department that the person has been rehabilitated and presently is of such good character as to justify the issuance of the license or the provision of service in the home health agency.

(d) An applicant and any other person specified in this section, as part of the background clearance process, shall provide information as to whether or not the person has any prior criminal convictions, has had any arrests within the past 12-month period, or has any active arrests, and shall certify that, to the best of his or her knowledge, the information provided is true. This requirement is not intended to duplicate existing requirements for individuals who are required to submit fingerprint images as part of a criminal background clearance process. Every applicant shall provide information on any prior administrative action taken against him or her by any federal, state, or local government agency and shall certify that, to the best of his or her knowledge, the information provided is true. An applicant or other person required to provide information pursuant to this section that knowingly or willfully makes false statements, representations, or omissions may be subject to administrative action, including, but not limited to, denial of his or her application or exemption or revocation of any exemption previously granted.

SEC. 19. Section 1797.153 of the Health and Safety Code is amended to read:

1797.153. (a) In each operational area the county health officer and the local EMS agency administrator may act jointly as the medical health operational area coordinator (MHOAC). If the county health officer and the local EMS agency administrator are unable to fulfill the duties of the MHOAC they may jointly appoint another individual to fulfill these responsibilities. If an operational area has a MHOAC, the MHOAC in cooperation with the county office of emergency services, local public health department, the local office of environmental health, the local department of mental health, the local EMS agency, the local fire department, the regional disaster and medical health coordinator (RDMHC), and the regional office of the Office of Emergency Services (OES), shall be responsible for ensuring the development of a medical and health disaster plan for the operational area. The medical and disaster plans shall follow the Standard Emergency Management System and National Incident Management System. The MHOAC shall recommend to the operational area coordinator of the Office of Emergency Services a medical and health disaster plan for the provision of medical and health mutual aid within the operational area.

(b) For purposes of this section, "operational area" has the same meaning as that term is defined in subdivision (b) of Section 8559 of the Government Code.

(c) The medical and health disaster plan shall include preparedness, response, recovery, and mitigation functions consistent with the State Emergency Plan, as established under Sections 8559 and 8560 of the Government Code, and, at a minimum, the medical and health disaster plan, policy, and procedures shall include all of the following:

(1) Assessment of immediate medical needs.

(2) Coordination of disaster medical and health resources.

(3) Coordination of patient distribution and medical evaluations.

(4) Coordination with inpatient and emergency care providers.

(5) Coordination of out-of-hospital medical care providers.

(6) Coordination and integration with fire agencies personnel, resources, and emergency fire prehospital medical services.

(7) Coordination of providers of nonfire based prehospital emergency medical services.

(8) Coordination of the establishment of temporary field treatment sites.

(9) Health surveillance and epidemiological analyses of community health status.

(10) Assurance of food safety.

(11) Management of exposure to hazardous agents.

(12) Provision or coordination of mental health services.

(13) Provision of medical and health public information protective action recommendations.

(14) Provision or coordination of vector control services.

(15) Assurance of drinking water safety.

(16) Assurance of the safe management of liquid, solid, and hazardous wastes.

(17) Investigation and control of communicable disease.

(d) In the event of a local, state, or federal declaration of emergency, the MHOAC shall assist the OES operational area coordinator in the coordination of medical and health disaster resources within the operational area, and be the point of contact in that operational area, for coordination with the RDMHC, the OES, the regional office of the OES, the State Department of Public Health, and the authority.

(e) Nothing in this section shall be construed to revoke or alter the current authority for disaster management provided under either of the following:

(1) The State Emergency Plan established pursuant to Section 8560 of the Government Code.

(2) The California standardized emergency management system established pursuant to Section 8607 of the Government Code.

SEC. 19.5. Section 100105 of the Health and Safety Code is amended to read:

100105. (a) The department is under the control of an executive officer known as the Director of Health Care Services, who shall be appointed by the Governor, subject to confirmation by the Senate, and hold office at the pleasure of the Governor.

(b) The director shall receive the annual salary provided by Article 1 (commencing with Section 11550) of Chapter 6 of Part 1 of Division 3 of Title 2 of the Government Code.

(c) Upon recommendation of the director, the Governor may appoint not to exceed two chief deputies of the department, subject to confirmation by the Senate, who shall hold office at the pleasure of the Governor. The salaries of the chief deputies shall be fixed in accordance with law.

SEC. 20. Section 100922 of the Health and Safety Code is amended to read:

100922. (a) Notwithstanding any other provision of law, a freestanding cardiac catheterization laboratory that as of December 31, 1993, was in active status in the Health Care Pilot Project established pursuant to former Part 1.85 (commencing with Section 444) of Division 1, and that meets the requirements specified in this section, may be licensed by the State Department of Public Health as a freestanding cardiac catheterization laboratory. The license shall be subject to suspension or revocation, or both, in accordance with Article 5 (commencing with Section 1240) of Chapter 1 of Division 2. An application for licensure or annual renewal shall be accompanied by a Licensing and Certification Program fee set in accordance with Section 1266.

(b) A laboratory granted a license pursuant to this section shall be subject to the department's regulations that govern cardiac catheterization laboratories operating in hospitals without facilities for cardiac surgery, any similar regulations that may be developed by the department specifically to govern freestanding cardiac catheterization laboratories, and to the following regulations: subdivisions (a) and (d) of Section 70129 of; paragraphs (1), (2), (3), and (4) of subdivision (a) of, and subdivision (i) of Section 70433 of; paragraphs (1), (3), (4), and (5) of subdivision (a) of Section 70435 of; subparagraphs (A), (B), and (D) of paragraph (1) of, and paragraphs (5) and (7) of, subdivision (b) of Section 70437 of; subdivision (a) of Section 70439 of; Sections 70841, 75021, and 75022 of; subdivision (a) of Section 75023 of; Sections 75024, 75025, and 75026 of; subdivisions (a), (b), and (c) of Section 75027 of;

subdivision (b) of Section 75029 of; Section 75030 of; subdivision (b) of Section 75031 of; Sections 75034, 75035, 75037, 75039, 75045, and 75046 of; subdivision (a) of Section 75047 of; and Sections 75050, 75051, 75052, 75053, 75054, 75055, 75057, 75059, 75060, 75061, 75062, 75063, 75064, 75065, 75066, 75071, and 75072 of; Title 22 of the California Code of Regulations.

(c) A laboratory granted a license pursuant to this section shall have a system for the ongoing evaluation of its operations and the services it provides. This system shall include a written plan for evaluating the efficiency and effectiveness of the health care services provided that describes the following:

(1) The scope of the services provided.

(2) Measurement indicators regarding the processes and outcomes of the services provided.

(3) The assignment of responsibility when the data from the measurement indicators demonstrates the need for action.

(4) A mechanism to ensure followup evaluation of the effectiveness of the actions taken.

(5) An annual evaluation of the plan.

(d) A laboratory granted a license pursuant to this section is authorized to perform only the following diagnostic procedures:

(1) Right heart catheterization or angiography, or both.

(2) Left heart catheterization or angiography, or both.

(3) Coronary catheterization and angiography.

(4) Electrophysiology studies.

(e) A laboratory granted a license pursuant to this section shall only perform its procedures on adults, on an outpatient basis. Each laboratory shall define patient characteristics that are appropriate for safe performance of procedures in the laboratory, and include evaluation of these criteria in its quality assurance process.

(f) Notwithstanding the requirements already set forth in this chapter, freestanding cardiac catheterization laboratories shall comply with all other applicable federal, state, and local laws.

(g) This section shall become operative on January 1, 1995, and does not require the department to adopt regulations.

SEC. 20.4. Section 101040 of the Health and Safety Code is amended to read:

101040. (a) The local health officer may take any preventive measure that may be necessary to protect and preserve the public health from any public health hazard during any "state of war emergency," "state of emergency," or "local emergency," as defined by Section 8558 of the Government Code, within his or her jurisdiction.

(b) "Preventive measure" means abatement, correction, removal or any other protective step that may be taken against any public health hazard that is caused by a disaster and affects the public health. Funds for these measures may be allowed pursuant to Sections 29127 to 29131, inclusive, and 53021 to 53023, inclusive, of the Government Code and from any other money appropriated by a county board of supervisors or a city governing body to carry out the purposes of this section.

(c) The local health officer, upon consent of the county board of supervisors or a city governing body, may certify any public health hazard resulting from any disaster condition if certification is required for any federal or state disaster relief program.

SEC. 20.6. Section 101080 of the Health and Safety Code is amended to read:

101080. Whenever a release, spill, escape, or entry of waste occurs as described in paragraph (2) of subdivision (b) of Section 101075 and the director or the local health officer reasonably determines that the waste is a hazardous waste or medical waste, or that it may become a hazardous waste or medical waste because of a combination or reaction with other substances or materials, and the director or local health officer reasonably determines that the release or escape is an immediate threat to the public health, or whenever there is an imminent and proximate threat of the introduction of any contagious, infectious, or communicable disease, chemical agent, noncommunicable biologic agent, toxin, or radioactive agent, the director may declare a health emergency and the local health officer may declare a local health emergency in the jurisdiction or any area thereof affected by the threat to the public health. Whenever a local health emergency is declared by a local health officer pursuant to this section, the local health emergency shall not remain in effect for a period in excess of seven days unless it has been ratified by the board of supervisors, or city council, whichever is applicable to the jurisdiction. The board of supervisors, or city council, if applicable, shall review, at least every 14 days until the local health emergency is terminated, the need for continuing the local health emergency and shall proclaim the termination of the local health emergency at the earliest possible date that conditions warrant the termination.

SEC. 21. Section 105440 of the Health and Safety Code is amended to read:

105440. (a) This chapter shall be known, and may be cited, as the California Environmental Contaminant Biomonitoring Program.

(b) For the purposes of this chapter, the following terms have the following meanings:

(1) "Agency" means the California Environmental Protection Agency.

(2) "Biomonitoring" means the process by which chemicals and their metabolites are identified and measured within different biological specimens.

(3) "Biological specimen" means a sample taken from a biophysical substance, that is reasonably available within a human body, for use as a medium to measure the presence and concentration of toxic chemicals.

(4) "Community" means geographically or nongeographically based populations that may participate in the community-based biomonitoring program. A "nongeographical community" includes, but is not limited to, populations that may share a common chemical exposure through similar occupations, populations experiencing a common health outcome that may be linked to chemical exposures, or populations that may experience similar chemical exposures because of comparable consumption, lifestyle, product use, or subpopulations that share ethnicity, age, or gender.

(5) "Department" means the State Department of Public Health.

(6) "Designated chemicals" means those chemicals that are known to, or strongly suspected of, adversely impacting human health or development, based upon scientific, peer-reviewed animal, human, or in vitro studies, and consist of only those substances including chemical families or metabolites that are included in the federal Centers for Disease Control and Prevention studies that are known collectively as the National Reports on Human Exposure to Environmental Chemicals program and any substances as specified pursuant to subdivision (c) of Section 105449.

(7) "Director" means the State Public Health Officer.

(8) "DTSC" means the Department of Toxic Substances Control within the agency.

(9) "Office" means the Office of Environmental Health Hazard Assessment within the agency.

(10) "Panel" means the Scientific Guidance Panel established pursuant to Article 2 (commencing with Section 105448).

(11) "Program" or "biomonitoring program" means the California Environmental Contaminant Biomonitoring Program, which shall be established and operated by the department, in collaboration with the agency, the office, and DTSC.

(12) "Secretary" means the Secretary of the California Environmental Protection Agency.

SEC. 22. Section 109277 of the Health and Safety Code is amended to read:

109277. (a) Every person or entity who owns or operates a health facility or a clinic, or who is licensed as a physician and surgeon and rents or owns the premises where his or her practice is located, shall cause a sign or notice to be posted where a physician and surgeon

performs breast cancer screening or biopsy as an outpatient service, or in a reasonably proximate area to where breast cancer screening or biopsy is performed. A sign or notice posted at the patient registration area of the health facility, clinic, or physician and surgeon's office shall constitute compliance with this section.

(b) The sign or notice shall read as follows:

"BE INFORMED"

"Upon a diagnosis of breast cancer, your physician and surgeon is required to provide you a written summary of alternative efficacious methods of treatment, pursuant to Section 109275 of the California Health and Safety Code. Your physician and surgeon may choose to provide the summary prior to the performance of a screening or biopsy for breast cancer at your request or at the physician and surgeon's discretion, when appropriate."

"The information about methods of treatment was developed by the State Department of Public Health to inform patients of the advantages, disadvantages, risks, and descriptions of procedures."

(c) The sign shall be not less than eight and one-half inches by 11 inches and shall be conspicuously displayed so as to be readable. The words "BE INFORMED" shall not be less than one-half inch in height and shall be centered on a single line with no other text. The message on the sign shall appear in English, Spanish, and Chinese.

SEC. 23. Section 110242 of the Health and Safety Code is amended to read:

110242. (a) The California Rx Prescription Drug Web Site Program is hereby established.

(b) The State Department of Health Care Services shall administer the program. The purpose of the program shall be to provide information to California residents and health care providers about options for obtaining prescription drugs at affordable prices.

(c) The department shall establish a Web site on or before July 1, 2008, which shall, at a minimum, provide information about, and electronic links to, all of the following:

(1) Prescription drug benefits available to Medicare beneficiaries, including the Voluntary Prescription Drug Benefit Program.

(2) State programs that provide drugs at discounted prices for California residents.

(3) Pharmaceutical manufacturer patient assistance programs that provide free or low-cost prescription drugs to qualifying individuals.

(4) Other Web sites as deemed appropriate by the department that help California residents to safely obtain prescription drugs at affordable

prices, including links to Web sites of health plans and health insurers regarding their prescription drug formularies.

(d) The department's Web site shall include price comparisons of at least 150 commonly prescribed prescription drugs, including typical prices charged by licensed pharmacies in the state.

(e) The department shall ensure that the Web site established pursuant to this section is coordinated with, and does not duplicate, other Web sites that provide information about prescription drug options and costs.

(f) Implementation of this section shall be contingent upon an appropriation, if the department determines that the requirements of this section cannot be implemented without additional funding, in which case the department shall request an appropriation from the Legislature for that purpose.

SEC. 24. Section 110806 of the Health and Safety Code is amended to read:

110806. (a) A meat or poultry supplier, distributor, broker, or processor that sells a meat- or poultry-related product in California that meets the criteria for a Class I or Class II recall according to the United States Department of Agriculture guidelines shall immediately notify the State Department of Public Health and shall provide the department with a list of all customers, including a firm name, address, contact person's name, telephone number, fax, and e-mail address, that have received or will receive any product subject to recall that the supplier, distributor, broker, or processor has handled or anticipates handling. The list shall include all pertinent identifying codes, including establishment numbers, package codes, product codes, pack dates, and lot numbers, if any, received or to be received, and any other relevant information. The information shall be electronically submitted to the department in a spreadsheet format specified by the department, and shall include, but not be limited to, a complete product distribution list of the recalled product, for each customer, including product ship date, amount of product shipped and amount of any product returned. The supplier, distributor, broker, or processor shall immediately notify each of its customers that received or may receive those products of the recall in a standardized format. The supplier, distributor, broker, or processor shall document this notification process, including who was notified, the date and time of the notification, and by what method they were notified. This information shall be maintained by the supplier, distributor, broker, or processor and shall be provided to the department upon request.

(b) The department may, after receiving the information required by subdivision (a), notify appropriate local health officers and environmental health directors, as soon as practicable, that a business in the local jurisdiction has handled or received, or anticipates handling or receiving,

a recalled meat- or poultry-related product. The department shall, if it makes the notification authorized by this subdivision, provide appropriate local health officers and environmental health directors with each supplier's, distributor's, broker's, processor's, or retailer's name, address, contact information, affected product identifying codes, including establishment numbers, package codes, product codes, pack dates, and lot numbers, if any, and all other supply chain information available.

(c) (1) If the department makes the notification authorized by subdivision (b), the department, local health officers, and environmental health directors may notify the public in a manner local health officers, in consultation with the department and environmental health directors, deem appropriate regarding recalled meat- and poultry-related products based on their determination that the retailer is present within the local jurisdiction and has received or made the product available to the public.

(2) If the retailer is a restaurant, and a determination has been made by a local health officer or environmental health officer that the contaminated product has not been served, sold, or otherwise offered to the public for consumption, and the contaminated product has been permanently removed from the restaurant's food supply, then the public notification shall exclude the name or any other identifying feature of the restaurant.

SEC. 25. Section 113763 of the Health and Safety Code is amended to read:

113763. "Department" means the State Department of Public Health.

SEC. 26. Section 113774 of the Health and Safety Code is amended to read:

113774. "Enforcement officer" means the director, agents, or environmental health specialists appointed by the State Public Health Officer, and all local health officers, directors of environmental health, and their duly authorized registered environmental health specialists and environmental health specialist trainees.

SEC. 27. Section 115730 of the Health and Safety Code, as added by Section 2 of Chapter 470 of the Statutes of 2006, is amended to read:

115730. (a) The State Department of Social Services shall convene a working group to develop recommendations for minimum safety requirements for playgrounds at child care centers.

(b) The working group shall include, but not be limited to, child care center operators, including representatives of the Professional Association for Childhood Education, the California Child Care Health Program, the Children's Advocacy Institute, the State Department of Public Health, and certified playground inspectors.

(c) The working group shall use the national guidelines published by the United States Consumer Product Safety Commission and those

regulations adopted pursuant to this article as a reference in developing its recommendations. However, the State Department of Social Services shall determine minimum safety requirements that are protective of child health on playgrounds at child care centers.

(d) The working group shall submit its playground safety recommendations to the State Department of Social Services by September 1, 2001.

(e) The working group shall submit its recommendations to the Legislature by November 1, 2001.

(f) This section shall be construed as a continuation of former Section 115736.

SEC. 28. Section 123371 of the Health and Safety Code is amended to read:

123371. (a) The State Department of Public Health shall develop standardized, objective information about umbilical cord blood donation that is sufficient to allow a pregnant woman to make an informed decision on whether to participate in a private or public umbilical cord blood banking program. This information shall include, but not be limited to, all of the following:

(1) The current and potential future medical uses of stored umbilical cord blood.

(2) The benefits and risks involved in umbilical cord blood banking.

(3) The medical process involved in umbilical cord blood banking.

(4) Medical or family history criteria that can impact a family's consideration of umbilical cord banking.

(5) An explanation of the differences between public and private umbilical cord blood banking.

(6) The availability and costs of public or private umbilical cord blood banks.

(7) Medical or family history criteria that can impact a family's consideration of umbilical cord blood banking.

(8) An explanation that the practices and policies of blood banks may vary with respect to accreditation, cord blood processing and storage methods, costs, and donor privacy.

(b) The information provided by the department pursuant to subdivision (a) shall be made available in Cantonese, English, Spanish, and Vietnamese.

(c) The information provided by the department pursuant to subdivision (a) shall be made available on the Internet Web sites of the licensing boards that have oversight over primary prenatal care providers.

(d) (1) The primary prenatal care provider of a woman who is known to be pregnant may, during the first prenatal visit, provide her with information developed by the department regarding her options with

respect to umbilical cord blood banking at the same time the provider provides information regarding the use and availability of prenatal screening for birth defects of the fetus, as required by Section 6527 of Title 17 of the California Code of Regulations.

(2) For purposes of this article, a "prenatal care provider" means a health care provider licensed pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code, or pursuant to an initiative act referred to in that division, who provides prenatal medical care within his or her scope of practice.

(e) The department shall only implement this article upon a determination by the Director of Finance, that sufficient private donations have been collected and deposited into the Umbilical Cord Blood Education Account, which is hereby created in the State Treasury. The moneys in the account shall be available, upon appropriation by the Legislature, for the purposes of this article. No public funds shall be used to implement this article. If sufficient funds are collected and deposited into the account, the Director of Finance shall file a written notice thereof with the Secretary of State.

SEC. 29. Section 123485 of the Health and Safety Code is amended to read:

123485. The following definitions shall govern the construction of this article:

(a) "Community-based comprehensive perinatal care" means a range of prenatal, delivery, postpartum, infant, and pediatric care services delivered in an urban community or neighborhood, rural area, city or county clinic, city or county health department, freestanding birth center, or other health care provider facility by health care practitioners trained in methods of preventing complications and problems during and after pregnancy, and in methods of educating pregnant women of these preventive measures, and who provide a continuous range of services. The health care practitioners shall, through a system of established linkages to other levels of care in the community, consult with, and, when appropriate, refer to, specialists.

(b) "Low income" means all persons of childbearing age eligible for Medi-Cal benefits under Chapter 7 (commencing with Section 14000) and all persons eligible for public social services for which federal reimbursement is available, including potential recipients. "Potential recipients" shall include the pregnant woman and her infant in a family where current social, economic and health conditions of the family indicate that the family would likely become a recipient of financial assistance within the next five years.

(c) "Prenatal care" means care received from conception until the completion of labor and delivery.

(d) "Perinatal care" means care received from the time of conception through the first year after birth.

(e) "Qualified organization" means any nonprofit, not-for-profit, or for-profit corporation with demonstrated expertise in implementing the Nurse-Family Partnership program or similar programs in different local settings.

(f) "Qualified trainer" means anyone who has been certified by the Nurse-Family Partnership to provide training.

(g) "Department" means the State Department of Public Health, unless otherwise designated.

SEC. 30. Section 124250 of the Health and Safety Code is amended to read:

124250. (a) The following definitions shall apply for purposes of this section:

(1) "Domestic violence" means the infliction or threat of physical harm against past or present adult or adolescent female intimate partners, and shall include physical, sexual, and psychological abuse against the woman, and is a part of a pattern of assaultive, coercive, and controlling behaviors directed at achieving compliance from or control over, that woman.

(2) "Shelter-based" means an established system of services where battered women and their children may be provided safe or confidential emergency housing on a 24-hour basis, including, but not limited to, hotel or motel arrangements, haven, and safe houses.

(3) "Emergency shelter" means a confidential or safe location that provides emergency housing on a 24-hour basis for battered women and their children.

(b) The Maternal and Child Health Branch of the State Department of Public Health shall administer a comprehensive shelter-based services grant program to battered women's shelters pursuant to this section.

(c) The Maternal and Child Health Branch shall administer grants, awarded as the result of a request for application process, to battered women's shelters that propose to maintain shelters or services previously granted funding pursuant to this section, to expand existing services or create new services, and to establish new battered women's shelters to provide services, in any of the following four areas:

(1) Emergency shelter to women and their children escaping violent family situations.

(2) Transitional housing programs to help women and their children find housing and jobs so that they are not forced to choose between returning to a violent relationship or becoming homeless. The programs may offer up to 18 months of housing, case management, job training

and placement, counseling, support groups, and classes in parenting and family budgeting.

(3) Legal and other types of advocacy and representation to help women and their children pursue the appropriate legal options.

(4) Other support services for battered women and their children.

(d) (1) The Maternal and Child Health Branch of the State Department of Public Health shall conduct a minimum of one site visit per grant term to each agency funded to provide shelter-based services to battered women and their children. The purpose of the site visit shall be a performance assessment of, and technical assistance for, each agency visited. The performance assessment shall include, but need not be limited to, a review of all of the following:

(A) Progress in meeting program goals and objectives.

(B) Agency organization and facilities.

(C) Personnel policies, files, and training.

(D) Recordkeeping, budgeting, and expenditures.

(E) Documentation, data collection, and client confidentiality.

(2) Subsequent to each site visit conducted under paragraph (1), the Maternal and Child Health Branch shall provide a written report to the agency summarizing the agency's performance, any deficiencies noted, and any corrective action needed.

(3) If an agency receives funding from both the Maternal and Child Health Branch of the State Department of Public Health and the Domestic Violence Program in the Office of Emergency Services during any grant cycle, the Maternal and Child Health Branch and the Comprehensive Statewide Domestic Violence Program shall, to the extent feasible, coordinate agency site visits and share performance assessment data with the goal of improving efficiency, eliminating duplication, and reducing administrative costs.

(e) In implementing the grant program pursuant to this section, the State Department of Public Health shall consult with an advisory council that shall remain in existence until January 1, 2010. The council shall be composed of not to exceed 13 voting members and two nonvoting ex officio members appointed as follows:

(1) Seven members appointed by the Governor.

(2) Three members appointed by the Speaker of the Assembly.

(3) Three members appointed by the Senate Committee on Rules.

(4) Two nonvoting ex officio members who shall be Members of the Legislature, one appointed by the Speaker of the Assembly and one appointed by the Senate Committee on Rules. Any Member of the Legislature appointed to the council shall meet with, and participate in the activities of, the council to the extent that participation is not incompatible with his or her position as a Member of the Legislature.

The membership of the council shall consist of domestic violence advocates, battered women service providers, and representatives of women's organizations, law enforcement, and other groups involved with domestic violence, and at least one representative of service providers serving the lesbian, gay, bisexual, and transgender community for purposes of domestic violence. At least one-half of the council membership shall consist of domestic violence advocates or battered women service providers from organizations such as the California Partnership to End Domestic Violence.

It is the intent of the Legislature that the council membership reflect the ethnic, racial, cultural, and geographic diversity of the state.

(f) The department shall collaborate closely with the council in the development of funding priorities, the framing of the Request for Proposals, and the solicitation of proposals.

(g) (1) The Maternal and Child Health Branch of the State Department of Public Health shall administer grants, awarded as the result of a request for application process, to agencies to conduct demonstration projects to serve battered women and their children, including, but not limited to, creative and innovative service approaches, such as community response teams and pilot projects to develop new interventions emphasizing prevention and education, and other support projects identified by the advisory council.

(2) For purposes of this subdivision, "agency" means a state agency, a local government, a community-based organization, or a nonprofit organization.

(h) It is the intent of the Legislature that services funded by this program include services for battered women in underserved communities, including the lesbian, gay, bisexual, and transgender community, and ethnic and racial communities. Therefore, the Maternal and Child Health Branch of the State Department of Public Health shall do all of the following:

(1) Fund shelters pursuant to this section that reflect the ethnic, racial, economic, cultural, and geographic diversity of the state.

(2) Target geographic areas and ethnic and racial communities of the state whereby, based on a needs assessment, it is determined that no shelter-based services for battered women exist or that additional resources are necessary.

(i) The director may award additional grants to shelter-based agencies when it is determined that there exists a critical need for shelter or shelter-based services.

(j) As a condition of receiving funding pursuant to this section, battered women's shelters shall do all of the following:

(1) Provide matching funds or in-kind contributions equivalent to not less than 20 percent of the grant they would receive. The matching funds or in-kind contributions may come from other governmental or private sources.

(2) Ensure that appropriate staff and volunteers having client contact meet the definition of "domestic violence counselor" as specified in subdivision (a) of Section 1037.1 of the Evidence Code. The minimum training specified in paragraph (2) of subdivision (a) of Section 1037.1 of the Evidence Code shall be provided to those staff and volunteers who do not meet the requirements of paragraph (1) of subdivision (a) of Section 1037.1 of the Evidence Code.

SEC. 31. Section 124900 of the Health and Safety Code is amended to read:

124900. (a) (1) The State Department of Health Care Services shall select primary care clinics that are licensed under paragraph (1) or (2) of subdivision (a) of Section 1204, or are exempt from licensure under subdivision (c) of Section 1206, to be reimbursed for delivering medical services, including preventive health care, and smoking prevention and cessation health education, to program beneficiaries.

(2) In order to be eligible to receive funds under this article a clinic shall meet all of the following conditions, at a minimum:

(A) Provide medical diagnosis and treatment.

(B) Provide medical support services of patients in all stages of illness.

(C) Provide communication of information about diagnosis, treatment, prevention, and prognosis.

(D) Provide maintenance of patients with chronic illness.

(E) Provide prevention of disability and disease through detection, education, persuasion, and preventive treatment.

(F) Meet one or both of the following conditions:

(i) Are located in an area or a facility federally designated as a health professional shortage area, medically underserved area, or medically underserved population.

(ii) Are clinics that are able to demonstrate that at least 50 percent of the patients served are persons with incomes at or below 200 percent of the federal poverty level.

(3) Notwithstanding the requirements of paragraph (2), all clinics that received funds under this article in the 1997–98 fiscal year shall continue to be eligible to receive funds under this article.

(b) As a part of the award process for funding pursuant to this article, the department shall take into account the availability of primary care services in the various geographic areas of the state. The department shall determine which areas within the state have populations which have clear and compelling difficulty in obtaining access to primary care.

The department shall consider proposals from new and existing eligible providers to extend clinic services to these populations.

(c) Each primary care clinic applying for funds pursuant to this article shall demonstrate that the funds shall be used to expand medical services, including preventive health care, and smoking prevention and cessation health education, for program beneficiaries above the level of services provided in the 1988 calendar year or in the year prior to the first year a clinic receives funds under this article if the clinic did not receive funds in the 1989 calendar year.

(d) (1) The department, in consultation with clinics funded under this article, shall develop a formula for allocation of funds available. It is the intent of the Legislature that the funds allocated pursuant to this article promote stability for those clinics participating in programs under this article as part of the state's health care safety net and at the same time be distributed in a manner that best promotes access to health care to uninsured populations.

(2) The formula shall be based on both of the following:

(A) A hold harmless for clinics funded in the 1997–98 fiscal year to continue to reimburse them for some portion of their uncompensated care.

(B) Demonstrated unmet need by both new and existing clinics, as reflected in their levels of uncompensated care reported to the department. For purposes of this article, "uncompensated care" means clinic patient visits for persons with incomes at or below 200 percent of the federal poverty level for which there is no encounter-based third-party reimbursement which includes, but is not limited to, unpaid expanded access to primary care claims.

(3) The department shall allocate available funds, for a three-year period, as follows:

(A) Clinics that received funding in the prior fiscal year shall receive 90 percent of their prior fiscal year allocation, subject to available funds, provided that the funding award is substantiated by the clinics' reported levels of uncompensated care.

(B) The remaining funds beyond 90 percent shall be awarded to new and existing applicants based on the clinics' reported levels of uncompensated care as verified by the department according to subparagraph (B) of paragraph (4). The department shall seek input from stakeholders to discuss any adjustments to award levels that the department deems reasonable, such as including base amounts for new applicant clinics.

(C) New applicants shall be awarded funds pursuant to this subdivision if they meet the minimum requirements for funding under this article based on the clinics' reported levels of uncompensated care as verified

by the department according to subparagraph (A) of paragraph (4). New applicants include applicants for any new site expansions by existing applicants.

(4) In assessing reported levels of uncompensated care, the department shall utilize the data available from the Office of Statewide Health Planning and Development's (OSHPD) completed analysis of the "Annual Report of Primary Care Clinics" for the prior fiscal year, or if more recent data is available, then the most recent data. If this data is unavailable for an existing applicant to assess reported levels of uncompensated care, the existing applicant shall receive an allocation pursuant to subparagraph (A) of paragraph (3).

(A) The department shall utilize the most recent data available from OSHPD's completed analysis of the "Annual Report of Primary Care Clinics" for the prior fiscal year, or if more recent data is available, then the most recent data.

(B) If the funds allocated to the program are less than the prior year, the department shall allocate available funds to existing program providers only.

(5) The department shall establish a base funding level, subject to available funds, of no less than thirty-five thousand dollars ($35,000) for frontier clinics and Native American reservation-based clinics. For purposes of this article, "frontier clinics" means clinics located in a medical services study area with a population of fewer than 11 persons per square mile.

(6) The department shall develop, in consultation with clinics funded pursuant to this article, a formula for reallocation of unused funds to other participating clinics to reimburse for uncompensated care. The department shall allocate the unused funds remaining on October 30, for the prior fiscal year to other participating clinics to reimburse for uncompensated care.

(e) In applying for funds, eligible clinics shall submit a single application per clinic corporation. Applicants with multiple sites shall apply for all eligible clinics, and shall report to the department the allocation of funds among their corporate sites in the prior year. A corporation may only claim reimbursement for services provided at a program-eligible clinic site identified in the corporate entity's application for funds, and approved for funding by the department. A corporation may increase or decrease the number of its program-eligible clinic sites on an annual basis, at the time of the annual application update for the subsequent fiscal years of any multiple-year application period.

(f) Grant allocations pursuant to this article shall be based on the formula developed by the department, notwithstanding a merger of one of more licensed primary care clinics participating in the program.

(g) A clinic that is eligible for the program in every other respect, but that provides dental services only, rather than the full range of primary care medical services, shall only be eligible to receive funds under this article on an exception basis. A dental-only provider's application shall include a memorandum of understanding (MOU) with a primary care clinic funded under this article. The MOU shall include medical protocols for making referrals by the primary care clinic to the dental clinic and from the dental clinic to the primary care clinic, and ensure that case management services are provided and that the patient is being provided comprehensive primary care as defined in subdivision (a).

(h) (1) For purposes of this article, an outpatient visit shall include diagnosis and medical treatment services, including the associated pharmacy, X-ray, and laboratory services, and prevention health and case management services that are needed as a result of the outpatient visit. For a new patient, an outpatient visit shall also include a health assessment encompassing an assessment of smoking behavior and the patient's need for appropriate health education specific to related tobacco use and exposure.

(2) "Case management" includes, for this purpose, the management of all physician services, both primary and specialty, and arrangements for hospitalization, postdischarge care, and followup care.

(i) (1) Payment shall be on a per-visit basis at a rate that is determined by the department to be appropriate for an outpatient visit as defined in this section, and shall be not less than seventy-one dollars and fifty cents ($71.50).

(2) In developing a statewide uniform rate for an outpatient visit as defined in this article, the department shall consider existing rates of payments for comparable outpatient visits. The department shall review the outpatient visit rate on an annual basis.

(j) Not later than June 1 of each year, the department shall adopt and provide each licensed primary care clinic with a schedule for programs under this article, including the date for notification of availability of funds, the deadline for the submission of a completed application, and an anticipated contract award date for successful applicants.

(k) In administering the program created pursuant to this article, the department shall utilize the Medi-Cal program statutes and regulations pertaining to program participation standards, medical and administrative recordkeeping, the ability of the department to monitor and audit clinic records pertaining to program services rendered to program beneficiaries and take recoupments or recovery actions consistent with monitoring and audit findings, and the provider's appeal rights. Each primary care clinic applying for program participation shall certify that it will abide

by these statutes and regulations and other program requirements set forth in this article.

SEC. 32. Section 125002 of the Health and Safety Code is amended to read:

125002. (a) In order to align closely related programs and in order to facilitate research into the causes of, and treatment for, birth defects, the Birth Defects Monitoring Program provided for pursuant to Chapter 1 (commencing with Section 103825) of Part 2 of Division 102 shall become part of the Maternal, Child, and Adolescent Health program provided for in Article 1 (commencing with Section 123225) of Chapter 1 of Part 2 of Division 106.

(b) It is the intent of the Legislature that pregnancy blood samples, taken for prenatal screening, shall be stored and used only for the following purposes:

(1) Research to identify risk factors for children's and women's diseases.

(2) Research to develop and evaluate screening tests.

(3) Research to develop and evaluate prevention strategies.

(4) Research to develop and evaluate treatments.

(c) Before any pregnancy blood samples are released for research purposes, all of the following conditions must be met:

(1) Individual consent at the time the sample is drawn to allow confidential use of the sample for research purposes by the department or the department's approved researchers.

(2) Protocol review for scientific merit by the department or another entity authorized by the department.

(3) Protocol review by the State Committee for the Protection of Human Subjects.

(d) When pregnancy blood samples are stored, analyzed or otherwise shared for research purposes with nondepartment staff, no information may be released identifying the person from whom the samples were obtained.

(e) Since the pregnancy blood samples described in this section will be stored by the California Birth Defects Monitoring Program or another entity authorized by the State Department of Public Health, Section 103850, pertaining to confidentiality of information, is applicable.

SEC. 33. Section 125118 of the Health and Safety Code is amended to read:

125118. (a) The State Department of Public Health shall develop guidelines for research involving the derivation or use of human embryonic stem cells in California.

(b) In developing the guidelines specified in subdivision (a), the department may consider other applicable guidelines developed or in

use in the United States and in other countries, including, but not limited to, the Guidelines for Research Using Human Pluripotent Stem Cells developed by the National Institutes of Health and published in August 2000, and corrected in November 2000, and the Guidelines for Human Embryonic Stem Cell Research issued by the National Research Council and Institute of Medicine of the National Academies in 2005.

SEC. 34. Section 125335 of the Health and Safety Code is amended to read:

125335. (a) Prior to obtaining informed consent from a subject for AOP or any alternative method of ovarian retrieval on a subject for the purpose of procuring oocytes for research or the development of medical therapies, a physician and surgeon shall provide to the subject a standardized medically accurate written summary of health and consumer issues associated with AOP and any alternative methods of oocyte retrieval. The failure to provide to a subject this standardized medically accurate written summary constitutes unprofessional conduct within the meaning of Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code.

(b) The summary shall include, but not be limited to, medically accurate disclosures concerning the potential risks of AOP or any alternative method of oocyte retrieval, including the risks associated with the surgical procedure and with using the drugs, medications, and hormones prescribed for ovarian stimulation during the AOP process or any alternative method of oocyte retrieval.

(c) For purposes of subdivision (a), "written summary of health and consumer issues" means the guide published and updated by the American Society for Reproductive Medicine entitled, "Assisted Reproductive Technology: A Guide for Patients" or an alternative written medically accurate document prepared by a recognized authority on oocyte retrieval for medical research that also meets the criteria included in this section. This alternative document may be one that has been approved and recommended by the State Department of Public Health pursuant to Section 125118 and shall include all of the following:

(1) The document shall adhere to simplified reading standards, including, but not limited to, those generally accepted and required for government publications. The document shall be written in layperson's language and shall be made available in languages spoken by subjects in the study if their proficiency is largely in a language other than English. All information in the document shall be conveyed to the subject orally in easy to understand and nontechnical terms.

(2) The document shall include additional resources for, or list additional sources of, medical information on health and safety issues surrounding oocyte retrieval.

SEC. 35. Section 125342 of the Health and Safety Code is amended to read:

125342. (a) A research program or project that involves AOP or any alternative method of oocyte retrieval shall ensure that a written record is established and maintained to include, but not be limited to, all of the following components:

(1) The demographics of subjects, including, but not limited to, their age, race, primary language, ethnicity, income bracket, education level, and the first three digits of the ZIP Code of current residence.

(2) Information regarding every oocyte that has been donated or used. This record should be sufficient to determine the provenance and disposition of those materials.

(3) A record of all adverse health outcomes, including, but not limited to, incidences and degrees of severity, resulting from the AOP or any alternative method of oocyte retrieval.

(b) (1) The information included in the written record pursuant to subdivision (a) shall not disclose personally identifiable information about subjects, and shall be confidential and is deemed protected by subject privacy provisions of law. This information shall be reported to the State Department of Public Health, which shall aggregate the data and make it publicly available, as set forth in paragraph (2), in a manner that does not reveal personally identifiable information about the subjects.

(2) The department shall provide public access to information which it is required to release pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code). The department shall disseminate the information to the general public via governmental and other Web sites in a manner that is understandable to the average person. The information shall be made available to the public when the biennial review pursuant to Section 125119.5 is provided to the Legislature.

SEC. 36. Section 127446 of the Health and Safety Code is amended to read:

127446. To the extent that any requirement of Section 127400, 127401, or 127405 results in a federal determination that a hospital's established charge schedule or published rates are not the hospital's customary or prevailing charges for services, the requirement in question shall be inoperative for all general acute care hospitals, including, but not limited to, a hospital that is licensed to and operated by a county or a hospital authority established pursuant to Section 101850. The State Department of Public Health shall seek federal guidance regarding modifications to the requirement in question. All other requirements of this article shall remain in effect.

SEC. 37. Section 130501 of the Health and Safety Code is amended to read:

130501. For purposes of this division, the following definitions shall apply:

(a) "Average manufacturer's price" has the same meaning as this term is defined in Section 1927(k)(1) of the federal Social Security Act (42 U.S.C. Sec. 1396r-8)(k)(1).

(b) "Department" means the State Department of Health Care Services.

(c) "Eligible Californian" means a resident of the state who meets any one or more of the following:

(1) Has total unreimbursed medical expenses equal to at least 10 percent of his or her family's income where the family's income does not exceed the state median family income.

(2) To the extent allowed by federal law, is enrolled in the Medicare Program, but whose prescription drugs are not covered by the Medicare Program.

(3) Has a family income that does not exceed 300 percent of the federal poverty guidelines and who does not have outpatient prescription drug coverage paid for by any one of the following:

(A) In whole by the Medi-Cal program.

(B) In whole or in part by the Healthy Families Program or other programs funded by the state.

(C) In whole or in part by another third-party payer, provided that the individual has not reached the annual limit on his or her prescription drug coverage.

(4) For purposes of this subdivision, the cost of drugs provided under this division is considered an expense incurred by the family for eligibility determination purposes.

(d) "Fund" means the California Discount Prescription Drug Program Fund.

(e) "Manufacturer" means a drug manufacturer as defined in Section 4033 of the Business and Professions Code.

(f) "Manufacturer's rebate" means the rebate for an individual drug or aggregate rebate for a group of drugs necessary to make the price for the drug ingredients equal to or less than the applicable benchmark price.

(g) "Medicaid best price" has the same meaning as this term is defined in Section 1927(c)(1)(C) of the Social Security Act (42 U.S.C. Sec. 1396r-8)(c)(1)(C).

(h) "Multiple-source drug" has the same meaning as this term is defined in Section 1927(k)(7) of the Social Security Act (42 U.S.C. Sec. 1396r-8)(k)(7).

(i) "National drug code" or "NDC" means the unique 10-digit, three-segment number assigned to each drug product listed under Section

510 of the federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 360). This number identifies the labeler or vendor, product, and trade package.

(j) "National sales data" means prescription data obtained from a national-level prescription tracking service.

(k) "Participating manufacturer" means a drug manufacturer that has contracted with the department to provide an individual drug or group of drugs for the program.

(*l*) "Participating pharmacy" means a pharmacy that has executed a pharmacy provider agreement with the department for this program.

(m) "Pharmacy contract rate" means the negotiated per prescription reimbursement rate for drugs dispensed to eligible Californians. The department shall establish a single, basic pharmacy rate, but may contract at different rates with pharmacies in order to provide access throughout the state.

(n) "Prescription drug" means any drug that bears the legend: "Caution: federal law prohibits dispensing without prescription," "Rx only," or words of similar import.

(o) "Private discount drug program" means a prescription drug discount card or manufacturer patient assistance program that provides discounted or free drugs to eligible individuals. For the purposes of this division, a private discount drug program is not considered insurance or a third-party payer program.

(p) "Program" means the California Discount Prescription Drug Program.

(q) "Single-source drug" has the same meaning as this term, and the term innovator multiple-source drug, are defined in Section 1927(k)(7) of the Social Security Act (42 U.S.C. Sec. 1396r-8)(k)(7).

(r) "Therapeutic category" means a drug or a grouping of drugs determined by the department to have similar attributes and to be alternatives for the treatment of a specific disease or condition.

(s) "Volume weighted average discount" means the aggregated average discount for the drugs of a manufacturer, weighted by each drug's percentage of the total prescription volume of that manufacturer's drugs. Drugs excluded from contracting by the department, pursuant to subdivision (d) of Section 130506 and in a manner consistent with subdivision (c) of Section 130506, shall be excluded from the calculation of the volume weighted average discount. National sales data shall be used to calculate the volume weighted average discount pursuant to Section 130506. Program utilization data shall be used to calculate the volume weighted average discount pursuant to Section 130507.

SEC. 37.5. Section 131006 of the Health and Safety Code is amended to read:

131006. Upon recommendation of the director, the Governor may appoint, not to exceed, two chief deputies of the State Department of Public Health, subject to confirmation by the Senate, who shall hold office at the pleasure of the Governor. The salaries of the chief deputies shall be fixed in accordance with law.

SEC. 37.7. Section 131071 is added to the Health and Safety Code, to read:

131071. Notwithstanding any other provision of law, whenever the department is authorized or required by statute, regulation, the due process provisions of the 14th amendment to the United States Constitution, and of subdivision (a) of Section 7 of Article I of the California Constitution, or required by contract, to conduct an adjudicative hearing leading to a final decision of the director or the department, all of the following shall apply:

(a) The proceeding shall be conducted pursuant to the administrative adjudication provisions of Chapter 4.5 (commencing with Section 11400) and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, except as specified in this section.

(b) Notwithstanding Section 11502 of the Government Code, whenever the department conducts a hearing under Chapter 4.5 (commencing with Section 11400) or Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, the hearing shall be conducted before an administrative law judge selected by the department and assigned to a hearing office that complies with the procedural requirements of Chapter 4.5 (commencing with Section 11400) of Part 1 of Division 3 of Title 2 of the Government Code.

(c) (1) Notwithstanding Section 11508 of the Government Code, whenever the department conducts a hearing under Chapter 4.5 (commencing with Section 11400) or Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, the time and place of the hearing shall be determined by the staff assigned to the hearing office hearing the matter, except as provided in paragraph (2) or unless the department by regulation specifies otherwise.

(2) Formal hearings requested by health facilities shall be held in the City of Sacramento.

(d) (1) Unless otherwise specified in this section, the following sections of the Government Code shall apply to any adjudicative hearing conducted by the department only if the department has not, by regulation, specified an alternative procedure for the particular type of hearing at issue: Section 11503 relating to accusations, Section 11504 relating to statements of issues, Section 11505 relating to the contents of the statement to respondent, Section 11506 relating to the notice of

defense, Section 11507.6 relating to discovery rights and procedures, Section 11508 relating to the time and place of hearings, and Section 11516 relating to amendment of accusations.

(2) Any alternative procedure specified by the department in accordance with this subdivision shall conform to the purpose of the Government Code provision it replaces insofar as it is possible to do so consistent with the specific procedural requirements applicable to the type of hearing at issue.

(3) Any alternative procedures adopted by the department under this subdivision shall not diminish the amount of notice given of the issues to be heard by the department or deprive appellants of the right to discovery suitable to the particular proceedings. Except as specified in paragraph (2) of subdivision (c), modifications of timeframes or of the place of hearing made by regulation shall not lengthen timeframes within which the department is required to act nor require hearings to be held at a greater distance from the appellant's place of residence or business than is the case under the otherwise applicable Government Code provision.

(e) The specific timelines specified in Section 11517 of the Government Code shall not apply to any adjudicative hearing conducted by the department to the extent that the department has, by regulation, specified different timelines for the particular type of hearing at issue.

(f) In the case of any adjudicative hearing conducted by the department, "transcript," as used in subdivision (c) of Section 11517 of the Government Code, shall be deemed to include any alternative form of recordation of the oral proceedings, including, but not limited to, an audiotape.

(g) Pursuant to Section 11415.50 of the Government Code, the department may, by regulation, provide for any appropriate informal procedure to be used for an informal level of review that does not itself lead to a final decision of the department or the director. The procedures specified in Article 10 (commencing with Section 11445.10) of Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code shall not apply to the informal level of review. Informal conferences concerning appeals by health facilities may be held in the Cities of Sacramento or Los Angeles.

(h) Notwithstanding any other provision of law, any adjudicative hearing conducted by the department that is conducted pursuant to a federal statutory or regulatory requirement that contains specific procedures may be conducted pursuant to those procedures to the extent they are inconsistent with the procedures specified in this section.

(i) Nothing in this section shall supersede express provisions of law that apply to any hearing that is not adjudicative in nature or that does

not involve due process rights specific to an individual or specific individuals, as opposed to the general public or a segment of the general public.

(j) The regulations of the former State Department of Health Services pertaining to adjudicative hearings pursuant to Section 100171 shall apply to the department until the department adopts regulations superseding those regulations. The department may enter into an interagency agreement with the State Department of Health Care Services to have the hearing office of the State Department of Health Care Services conduct adjudicative hearings on behalf of the department in accordance with this section.

SEC. 38. Section 12693.325 of the Insurance Code is amended to read:

12693.325. (a) (1) Notwithstanding any provision of this chapter, a participating health, dental, or vision plan that is licensed and in good standing as required by subdivision (b) of Section 12693.36 may provide application assistance directly to an applicant acting on behalf of an eligible person who telephones, writes, or contacts the plan in person at the plan's place of business, or at a community public awareness event that is open to all participating plans in the county, or at any other site approved by the board, and who requests application assistance.

(2) A participating health, dental, or vision plan may also provide application assistance directly to an applicant only under the following conditions:

(A) The assistance is provided upon referral from a government agency, school, or school district.

(B) The applicant has authorized the government agency, school, or school district to allow a health, dental, or vision plan to contact the applicant with additional information on enrolling in free or low-cost health care.

(C) The State Department of Health Care Services approves the applicant authorization form in consultation with the board.

(D) The plan may not actively solicit referrals and may not provide compensation for the referrals.

(E) If a family is already enrolled in a health plan, the plan that contacts the family cannot encourage the family to change health plans.

(F) The board amends its marketing guidelines to require that when a government agency, school, or school district requests assistance from a participating health, dental, or vision plan to provide application assistance, that all plans in the area shall be invited to participate.

(G) The plan abides by the board's marketing guidelines.

(b) A participating health, dental, or vision plan may provide application assistance to an applicant who is acting on behalf of an eligible or potentially eligible child in any of the following situations:

(1) The child is enrolled in a Medi-Cal managed care plan and the participating plan becomes aware that the child's eligibility status has or will change and that the child will no longer be eligible for Medi-Cal. In those instances, the plan shall inform the applicant of the differences in benefits and requirements between the Healthy Families Program and the Medi-Cal program.

(2) The child is enrolled in a Healthy Families Program managed care plan and the participating plan becomes aware that the child's eligibility status has changed or will change and that the child will no longer be eligible for the Healthy Families Program. When it appears a child may be eligible for Medi-Cal benefits, the plan shall inform the applicant of the differences in benefits and requirements between the Medi-Cal program and the Healthy Families Program.

(3) The participating plan provides employer-sponsored coverage through an employer and an employee of that employer who is the parent or legal guardian of the eligible or potentially eligible child.

(4) The child and his or her family are participating through the participating plan in COBRA continuation coverage or other group continuation coverage required by either state or federal law and the group continuation coverage will expire within 60 days, or has expired within the past 60 days.

(5) The child's family, but not the child, is participating through the participating plan in COBRA continuation coverage or other group continuation coverage required by either state or federal law, and the group continuation coverage will expire within 60 days, or has expired within the past 60 days.

(c) A participating health, dental, or vision plan employee or other representative that provides application assistance shall complete a certified application assistant training class approved by the State Department of Health Care Services in consultation with the board. The employee or other representative shall in all cases inform an applicant verbally of his or her relationship with the participating health plan. In the case of an in-person contact, the employee or other representative shall provide in writing to the applicant the nature of his or her relationship with the participating health plan and obtain written acknowledgment from the applicant that the information was provided.

(d) A participating health, dental, or vision plan that provides application assistance may not do any of the following:

(1) Directly, indirectly, or through its agents, conduct door-to-door marketing or telephone solicitation.

(2) Directly, indirectly, or through its agents, select a health plan or provider for a potential applicant. Instead, the plan shall inform a potential applicant of the choice of plans available within the applicant's county of residence and specifically name those plans and provide the most recent version of the program handbook.

(3) Directly, indirectly, or through its agents, conduct mail or in-person solicitation of applicants for enrollment, except as specified in subdivision (b), using materials approved by the board.

(e) A participating health, dental, or vision plan that provides application assistance pursuant to this section is not eligible for an application assistance fee otherwise available pursuant to Section 12693.32, and may not sponsor a person eligible for the program by paying his or her family contribution amounts or copayments, and may not offer applicants any inducements to enroll, including, but not limited to, gifts or monetary payments.

(f) A participating health, dental, or vision plan may assist applicants acting on behalf of subscribers who are enrolled with the participating plan in completing the program's annual eligibility review package in order to allow those applicants to retain health care coverage.

(g) Each participating health, dental, or vision plan shall submit to the board a plan for application assistance. All scripts and materials to be used during application assistance sessions shall be approved by the board and the State Department of Health Care Services.

(h) Each participating health, dental, or vision plan shall provide each applicant with the toll-free telephone number for the Healthy Families Program.

(i) When deemed appropriate by the board, the board may refer a participating health, dental, or vision plan to the Department of Managed Health Care or the State Department of Health Care Services, as applicable, for the review or investigation of its application assistance practices.

(j) The board shall evaluate the impact of the changes required by this section and shall provide a biennial report to the Legislature on or before March 1 of every other year. To prepare these reports, the State Department of Health Care Services, in cooperation with the board, shall code all the application packets used by a managed care plan to record the number of applications received that originated from managed care plans. The number of applications received that originated from managed care plans shall also be reported on the board's Web site. In addition, the board shall periodically survey those families assisted by plans to determine if the plans are meeting the requirements of this section, and if families are being given ample information about the choice of health, dental, or vision plans available to them.

(k) Nothing in this section shall be seen as mitigating a participating health, dental, or vision plan's responsibility to comply with all federal and state laws, including, but not limited to, Section 1320a-7b of Title 42 of the United States Code.

SEC. 39. Section 12693.98 of the Insurance Code is amended to read:

12693.98. (a) (1) The Medi-Cal-to-Healthy Families Bridge Benefits Program is hereby established to provide any child who meets the criteria set forth in subdivision (b) with a one calendar-month period of health care benefits in order to provide the child with an opportunity to apply for the Healthy Families Program established under Chapter 16 (commencing with Section 12693).

(2) The Medi-Cal-to-Healthy Families Bridge Benefits Program shall be administered by the board and the State Department of Health Care Services.

(b) (1) Any child who meets all of the following requirements shall be eligible for one calendar month of Healthy Families benefits funded by Title XXI of the Social Security Act, known as the State Children's Health Insurance Program:

(A) He or she has been receiving, but is no longer eligible for, full-scope Medi-Cal benefits without a share of cost.

(B) He or she is eligible for full-scope Medi-Cal benefits with a share of cost.

(C) He or she is under 19 years of age at the time he or she is no longer eligible for full-scope Medi-Cal benefits without a share of cost.

(D) He or she has family income at or below 200 percent of the federal poverty level.

(E) He or she is not otherwise excluded under the definition of "targeted low-income child" under subsections (b)(1)(B)(ii), (b)(1)(C), and (b)(2) of Section 2110 of the Social Security Act (42 U.S.C. Secs. 1397jj(b)(1)(B)(ii), 1397jj(b)(1)(C), and 1397jj(b)(2)).

(2) The one calendar month of benefits under this chapter shall begin on the first day of the month following the last day of the receipt of benefits without a share of cost.

(c) The income methodology for determining a child's family income, as required by paragraph (1) of subdivision (b) shall be the same methodology used in determining a child's eligibility for the full scope of Medi-Cal benefits.

(d) The one calendar-month period of Healthy Families benefits provided under this chapter shall be identical to the scope of benefits that the child was receiving under the Medi-Cal program without a share of cost.

(e) The one calendar-month period of Healthy Families benefits provided under this chapter shall only be made available through a Medi-Cal provider or under a Medi-Cal managed care arrangement or contract.

(f) Except as provided in subdivision (j), nothing in this section shall be construed to provide Healthy Families benefits for more than a one calendar-month period under any circumstances, including the failure to apply for benefits under the Healthy Families Program or the failure to be made aware of the availability of the Healthy Families Program, unless the circumstances described in subdivision (b) reoccur.

(g) (1) This section shall become operative on the first day of the second month following the effective date of this section, subject to paragraph (2).

(2) Under no circumstances shall this section become operative until, and shall be implemented only to the extent that, all necessary federal approvals, including approval of any amendments to the State Child Health Plan have been sought and obtained and federal financial participation under the federal State Children's Health Insurance Program, as set forth in Title XXI of the Social Security Act, has been approved.

(h) This section shall become inoperative if an unappealable court decision or judgment determines that any of the following apply:

(1) The provisions of this section are unconstitutional under the United States Constitution or the California Constitution.

(2) The provisions of this section do not comply with the State Children's Health Insurance Program, as set forth in Title XXI of the Social Security Act.

(3) The provisions of this section require that the health care benefits provided pursuant to this section are required to be furnished for more than two calendar months.

(i) If the State Child Health Insurance Program waiver described in Section 12693.755 is approved, and at the time the waiver is implemented, the benefits described in this section shall also be available to persons who meet the eligibility requirements of the program and are parents of, or, as defined by the board, adults responsible for, children enrolled to receive coverage under this part or enrolled to receive full-scope Medi-Cal services with no share of cost.

(j) The one month of benefits provided in this section shall be increased to two months commencing on implementation of the waiver referred to in Section 12693.755.

(k) This section shall cease to be implemented on the date that the Director of Health Care Services executes a declaration stating that implementation of the Healthy Families Presumptive Eligibility Program

established pursuant to Section 12693.98a has commenced, and as of that date is repealed.

SEC. 40. Section 12693.98a of the Insurance Code is amended to read:

12693.98a. (a) (1) The Healthy Families Presumptive Eligibility Program is hereby established to provide any child who meets the criteria set forth in subdivision (b) with presumptive eligibility benefits until the board has determined the child's eligibility for the Healthy Families Program.

(2) The Healthy Families Presumptive Eligibility Program shall be administered by the board.

(b) (1) Any child who meets both of the following requirements shall be eligible for presumptive eligibility benefits under the Healthy Families Presumptive Eligibility Program:

(A) He or she has been receiving, but is no longer eligible for, full-scope Medi-Cal benefits without a share of cost, or he or she is eligible for full-scope Medi-Cal benefits with a share of cost.

(B) He or she otherwise appears to meet the income eligibility criteria for the Healthy Families Program.

(2) The presumptive eligibility benefits under this section shall begin on the first day of the month following the last day of the receipt of Medi-Cal benefits without a share of cost. Presumptive eligibility benefits under this section shall terminate at the end of the month in which a child's effective date in the Healthy Families Program begins or the end of the month in which the board determines that the child is not eligible for the Healthy Families Program. If the board determines that the child is eligible for the Healthy Families Program, the board shall enroll the child in the Healthy Families Program without an interruption in coverage. If the board determines that the child is ineligible for the Healthy Families Program, the board shall terminate the child's benefits under the Healthy Families Presumptive Eligibility Program.

(c) The income methodology for determining a child's family income for the purposes of the Healthy Families Presumptive Eligibility Program, as required by paragraph (1) of subdivision (b), shall be the same methodology used in determining a child's eligibility for the full scope of Medi-Cal benefits.

(d) The scope of presumptive eligibility benefits provided under the Healthy Families Presumptive Eligibility Program shall be identical to the scope of benefits that the child was receiving under the Medi-Cal program without a share of cost.

(e) The presumptive eligibility benefits provided under this section shall only be made available through a Medi-Cal provider or under a Medi-Cal managed care arrangement or contract.

(f) When an application is forwarded by the county to the Healthy Families Program, the county shall send the application to the Healthy Families Program via an electronic application format defined by the department, provided that the department has implemented the automated interfaces necessary to accomplish electronic submission of applications from the county to the Healthy Families Program without requiring duplicative data entry by the county. The transmission of the electronic application to the Healthy Families Program shall occur within the timeframes designated by the department.

(g) To the extent necessary, the department and the board may exchange a child's case file solely for the purpose of determining the child's eligibility for the Medi-Cal program or the Healthy Families Program, without requiring the family's consent, to the extent allowed by federal law. Any information, including the child's case file, shall be kept confidential by the department and the board pursuant to state and federal law, and it shall be used only for the determination or continuation of eligibility.

(h) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department shall implement this section by means of all-county letters or similar instructions, without taking any further regulatory action. Thereafter, the department may adopt regulations, as necessary, to implement this section in accordance with the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(i) This section shall be implemented when the state has sought and obtained approval of any amendments to its state plan necessary to implement the changes to this section, pursuant to this act, and has obtained funding under Title XXI of the Social Security Act (42 U.S.C. Sec. 1397aa et seq.) for the provision of benefits under this section. Until the changes to this section, made by this act, are implemented, the Medi-Cal to Healthy Families Bridge Program established pursuant to Section 12693.98 shall remain in effect. Notwithstanding any other provision of law, and only when all necessary federal approvals have been obtained by the state, this section shall be implemented only to the extent federal financial participation under Title XXI of the Social Security Act (42 U.S.C. Sec. 1397aa et seq.) is available to fund benefits provided under this section.

(j) Upon implementation of the Healthy Families Presumptive Eligibility Program pursuant to this section, the Director of Health Care Services shall execute a declaration, which shall be retained by the director, stating that implementation of the section has commenced.

SEC. 41. Section 830.3 of the Penal Code is amended to read:

830.3. The following persons are peace officers whose authority extends to any place in the state for the purpose of performing their primary duty or when making an arrest pursuant to Section 836 of the Penal Code as to any public offense with respect to which there is immediate danger to person or property, or of the escape of the perpetrator of that offense, or pursuant to Section 8597 or 8598 of the Government Code. These peace officers may carry firearms only if authorized and under those terms and conditions as specified by their employing agencies:

(a) Persons employed by the Division of Investigation of the Department of Consumer Affairs and investigators of the Medical Board of California and the Board of Dental Examiners, who are designated by the Director of Consumer Affairs, provided that the primary duty of these peace officers shall be the enforcement of the law as that duty is set forth in Section 160 of the Business and Professions Code.

(b) Voluntary fire wardens designated by the Director of Forestry and Fire Protection pursuant to Section 4156 of the Public Resources Code, provided that the primary duty of these peace officers shall be the enforcement of the law as that duty is set forth in Section 4156 of that code.

(c) Employees of the Department of Motor Vehicles designated in Section 1655 of the Vehicle Code, provided that the primary duty of these peace officers shall be the enforcement of the law as that duty is set forth in Section 1655 of that code.

(d) Investigators of the California Horse Racing Board designated by the board, provided that the primary duty of these peace officers shall be the enforcement of Chapter 4 (commencing with Section 19400) of Division 8 of the Business and Professions Code and Chapter 10 (commencing with Section 330) of Title 9 of Part 1 of this code.

(e) The State Fire Marshal and assistant or deputy state fire marshals appointed pursuant to Section 13103 of the Health and Safety Code, provided that the primary duty of these peace officers shall be the enforcement of the law as that duty is set forth in Section 13104 of that code.

(f) Inspectors of the food and drug section designated by the chief pursuant to subdivision (a) of Section 106500 of the Health and Safety Code, provided that the primary duty of these peace officers shall be the enforcement of the law as that duty is set forth in Section 106500 of that code.

(g) All investigators of the Division of Labor Standards Enforcement designated by the Labor Commissioner, provided that the primary duty of these peace officers shall be the enforcement of the law as prescribed in Section 95 of the Labor Code.

(h) All investigators of the State Departments of Health Care Services, Public Health, Social Services, Mental Health, and Alcohol and Drug Programs, the Department of Toxic Substances Control, the Office of Statewide Health Planning and Development, and the Public Employees' Retirement System, provided that the primary duty of these peace officers shall be the enforcement of the law relating to the duties of his or her department or office. Notwithstanding any other provision of law, investigators of the Public Employees' Retirement System shall not carry firearms.

(i) The Chief of the Bureau of Fraudulent Claims of the Department of Insurance and those investigators designated by the chief, provided that the primary duty of those investigators shall be the enforcement of Section 550.

(j) Employees of the Department of Housing and Community Development designated under Section 18023 of the Health and Safety Code, provided that the primary duty of these peace officers shall be the enforcement of the law as that duty is set forth in Section 18023 of that code.

(k) Investigators of the office of the Controller, provided that the primary duty of these investigators shall be the enforcement of the law relating to the duties of that office. Notwithstanding any other law, except as authorized by the Controller, the peace officers designated pursuant to this subdivision shall not carry firearms.

(*l*) Investigators of the Department of Corporations designated by the Commissioner of Corporations, provided that the primary duty of these investigators shall be the enforcement of the provisions of law administered by the Department of Corporations. Notwithstanding any other provision of law, the peace officers designated pursuant to this subdivision shall not carry firearms.

(m) Persons employed by the Contractors' State License Board designated by the Director of Consumer Affairs pursuant to Section 7011.5 of the Business and Professions Code, provided that the primary duty of these persons shall be the enforcement of the law as that duty is set forth in Section 7011.5, and in Chapter 9 (commencing with Section 7000) of Division 3, of that code. The Director of Consumer Affairs may designate as peace officers not more than three persons who shall at the time of their designation be assigned to the special investigations unit of the board. Notwithstanding any other provision of law, the persons designated pursuant to this subdivision shall not carry firearms.

(n) The Chief and coordinators of the Law Enforcement Division of the Office of Emergency Services.

(o) Investigators of the office of the Secretary of State designated by the Secretary of State, provided that the primary duty of these peace

officers shall be the enforcement of the law as prescribed in Chapter 3 (commencing with Section 8200) of Division 1 of Title 2 of, and Section 12172.5 of, the Government Code. Notwithstanding any other provision of law, the peace officers designated pursuant to this subdivision shall not carry firearms.

(p) The Deputy Director for Security designated by Section 8880.38 of the Government Code, and all lottery security personnel assigned to the California State Lottery and designated by the director, provided that the primary duty of any of those peace officers shall be the enforcement of the laws related to assuring the integrity, honesty, and fairness of the operation and administration of the California State Lottery.

(q) Investigators employed by the Investigation Division of the Employment Development Department designated by the director of the department, provided that the primary duty of those peace officers shall be the enforcement of the law as that duty is set forth in Section 317 of the Unemployment Insurance Code.

Notwithstanding any other provision of law, the peace officers designated pursuant to this subdivision shall not carry firearms.

(r) The chief and assistant chief of museum security and safety of the California Science Center, as designated by the executive director pursuant to Section 4108 of the Food and Agricultural Code, provided that the primary duty of those peace officers shall be the enforcement of the law as that duty is set forth in Section 4108 of the Food and Agricultural Code.

(s) Employees of the Franchise Tax Board designated by the board, provided that the primary duty of these peace officers shall be the enforcement of the law as set forth in Chapter 9 (commencing with Section 19701) of Part 10.2 of Division 2 of the Revenue and Taxation Code.

(t) Notwithstanding any other provision of this section, a peace officer authorized by this section shall not be authorized to carry firearms by his or her employing agency until that agency has adopted a policy on the use of deadly force by those peace officers, and until those peace officers have been instructed in the employing agency's policy on the use of deadly force.

Every peace officer authorized pursuant to this section to carry firearms by his or her employing agency shall qualify in the use of the firearms at least every six months.

(u) Investigators of the Department of Managed Health Care designated by the Director of the Department of Managed Health Care, provided that the primary duty of these investigators shall be the enforcement of the provisions of laws administered by the Director of the Department of Managed Health Care. Notwithstanding any other

provision of law, the peace officers designated pursuant to this subdivision shall not carry firearms.

(v) The Chief, Deputy Chief, supervising investigators, and investigators of the Office of Protective Services of the State Department of Developmental Services, provided that the primary duty of each of those persons shall be the enforcement of the law relating to the duties of his or her department or office.

SEC. 42. Section 1203.097 of the Penal Code, as amended by Section 5 of Chapter 476 of the Statutes of 2006, is amended to read:

1203.097. (a) If a person is granted probation for a crime in which the victim is a person defined in Section 6211 of the Family Code, the terms of probation shall include all of the following:

(1) A minimum period of probation of 36 months, which may include a period of summary probation as appropriate.

(2) A criminal court protective order protecting the victim from further acts of violence, threats, stalking, sexual abuse, and harassment, and, if appropriate, containing residence exclusion or stay-away conditions.

(3) Notice to the victim of the disposition of the case.

(4) Booking the defendant within one week of sentencing if the defendant has not already been booked.

(5) A minimum payment by the defendant of four hundred dollars ($400) to be disbursed as specified in this paragraph. If, after a hearing in court on the record, the court finds that the defendant does not have the ability to pay, the court may reduce or waive this fee.

Two-thirds of the moneys deposited with the county treasurer pursuant to this section shall be retained by counties and deposited in the domestic violence programs special fund created pursuant to Section 18305 of the Welfare and Institutions Code, to be expended for the purposes of Chapter 5 (commencing with Section 18290) of Part 6 of Division 9 of the Welfare and Institutions Code. The remainder shall be transferred, once a month, to the Controller for deposit in equal amounts in the Domestic Violence Restraining Order Reimbursement Fund and in the Domestic Violence Training and Education Fund, which are hereby created, in an amount equal to one-third of funds collected during the preceding month. In no event may the funds transferred to the Controller be less than one hundred thirty-three dollars ($133) for each defendant. However, if the court orders the defendant to pay less than two hundred dollars ($200) because of his or her inability to pay, the state shall receive two-thirds of the payment. Moneys deposited into these funds pursuant to this section shall be available upon appropriation by the Legislature and shall be distributed each fiscal year as follows:

(A) Funds from the Domestic Violence Restraining Order Reimbursement Fund shall be distributed to local law enforcement or

other criminal justice agencies for state-mandated local costs resulting from the notification requirements set forth in subdivision (b) of Section 6380 of the Family Code, based on the annual notification from the Department of Justice of the number of restraining orders issued and registered in the state domestic violence restraining order registry maintained by the Department of Justice, for the development and maintenance of the domestic violence restraining order databank system.

(B) Funds from the Domestic Violence Training and Education Fund shall support a statewide training and education program to increase public awareness of domestic violence and to improve the scope and quality of services provided to the victims of domestic violence. Grants to support this program shall be awarded on a competitive basis and be administered by the State Department of Public Health, in consultation with the statewide domestic violence coalition, which is eligible to receive funding under this section.

(6) Successful completion of a batterer's program, as defined in subdivision (c), or if none is available, another appropriate counseling program designated by the court, for a period not less than one year with periodic progress reports by the program to the court every three months or less and weekly sessions of a minimum of two hours class time duration. The defendant shall attend consecutive weekly sessions, unless granted an excused absence for good cause by the program for no more than three individual sessions during the entire program, and shall complete the program within 18 months, unless, after a hearing, the court finds good cause to modify the requirements of consecutive attendance or completion within 18 months.

(7) (A) (i) The court shall order the defendant to comply with all probation requirements, including the requirements to attend counseling, keep all program appointments, and pay program fees based upon the ability to pay.

(ii) The terms of probation for offenders shall not be lifted until all reasonable fees due to the counseling program have been paid in full, but in no case shall probation be extended beyond the term provided in subdivision (a) of Section 1203.1. If the court finds that the defendant does not have the ability to pay the fees based on the defendant's changed circumstances, the court may reduce or waive the fees.

(B) Upon request by the batterer's program, the court shall provide the defendant's arrest report, prior incidents of violence, and treatment history to the program.

(8) The court also shall order the defendant to perform a specified amount of appropriate community service, as designated by the court. The defendant shall present the court with proof of completion of community service and the court shall determine if the community service

has been satisfactorily completed. If sufficient staff and resources are available, the community service shall be performed under the jurisdiction of the local agency overseeing a community service program.

(9) If the program finds that the defendant is unsuitable, the program shall immediately contact the probation department or the court. The probation department or court shall either recalendar the case for hearing or refer the defendant to an appropriate alternative batterer's program.

(10) (A) Upon recommendation of the program, a court shall require a defendant to participate in additional sessions throughout the probationary period, unless it finds that it is not in the interests of justice to do so, states its reasons on the record, and enters them into the minutes. In deciding whether the defendant would benefit from more sessions, the court shall consider whether any of the following conditions exist:

(i) The defendant has been violence free for a minimum of six months.

(ii) The defendant has cooperated and participated in the batterer's program.

(iii) The defendant demonstrates an understanding of and practices positive conflict resolution skills.

(iv) The defendant blames, degrades, or has committed acts that dehumanize the victim or puts at risk the victim's safety, including, but not limited to, molesting, stalking, striking, attacking, threatening, sexually assaulting, or battering the victim.

(v) The defendant demonstrates an understanding that the use of coercion or violent behavior to maintain dominance is unacceptable in an intimate relationship.

(vi) The defendant has made threats to harm anyone in any manner.

(vii) The defendant has complied with applicable requirements under paragraph (6) of subdivision (c) or subparagraph (C) to receive alcohol counseling, drug counseling, or both.

(viii) The defendant demonstrates acceptance of responsibility for the abusive behavior perpetrated against the victim.

(B) The program shall immediately report any violation of the terms of the protective order, including any new acts of violence or failure to comply with the program requirements, to the court, the prosecutor, and, if formal probation has been ordered, to the probation department. The probationer shall file proof of enrollment in a batterer's program with the court within 30 days of conviction.

(C) Concurrent with other requirements under this section, in addition to, and not in lieu of, the batterer's program, and unless prohibited by the referring court, the probation department or the court may make provisions for a defendant to use his or her resources to enroll in a chemical dependency program or to enter voluntarily a licensed chemical dependency recovery hospital or residential treatment program that has

a valid license issued by the state to provide alcohol or drug services to receive program participation credit, as determined by the court. The probation department shall document evidence of this hospital or residential treatment participation in the defendant's program file.

(11) The conditions of probation may include, in lieu of a fine, but not in lieu of the fund payment required under paragraph (5), one or more of the following requirements:

(A) That the defendant make payments to a battered women's shelter, up to a maximum of five thousand dollars ($5,000).

(B) That the defendant reimburse the victim for reasonable expenses that the court finds are the direct result of the defendant's offense.

For any order to pay a fine, to make payments to a battered women's shelter, or to pay restitution as a condition of probation under this subdivision, the court shall make a determination of the defendant's ability to pay. Determination of a defendant's ability to pay may include his or her future earning capacity. A defendant shall bear the burden of demonstrating lack of his or her ability to pay. Express findings by the court as to the factors bearing on the amount of the fine shall not be required. In no event shall any order to make payments to a battered women's shelter be made if it would impair the ability of the defendant to pay direct restitution to the victim or court-ordered child support. When the injury to a married person is caused, in whole or in part, by the criminal acts of his or her spouse in violation of this section, the community property shall not be used to discharge the liability of the offending spouse for restitution to the injured spouse, as required by Section 1203.04, as operative on or before August 2, 1995, or Section 1202.4, or to a shelter for costs with regard to the injured spouse, until all separate property of the offending spouse is exhausted.

(12) If it appears to the prosecuting attorney, the court, or the probation department that the defendant is performing unsatisfactorily in the assigned program, is not benefiting from counseling, or has engaged in criminal conduct, upon request of the probation officer, the prosecuting attorney, or on its own motion, the court, as a priority calendar item, shall hold a hearing to determine whether further sentencing should proceed. The court may consider factors, including, but not limited to, any violence by the defendant against the former or a new victim while on probation and noncompliance with any other specific condition of probation. If the court finds that the defendant is not performing satisfactorily in the assigned program, is not benefiting from the program, has not complied with a condition of probation, or has engaged in criminal conduct, the court shall terminate the defendant's participation in the program and shall proceed with further sentencing.

(b) If a person is granted formal probation for a crime in which the victim is a person defined in Section 6211 of the Family Code, in addition to the terms specified in subdivision (a), all of the following shall apply:

(1) The probation department shall make an investigation and take into consideration the defendant's age, medical history, employment and service records, educational background, community and family ties, prior incidents of violence, police report, treatment history, if any, demonstrable motivation, and other mitigating factors in determining which batterer's program would be appropriate for the defendant. This information shall be provided to the batterer's program if it is requested. The probation department shall also determine which community programs the defendant would benefit from and which of those programs would accept the defendant. The probation department shall report its findings and recommendations to the court.

(2) The court shall advise the defendant that the failure to report to the probation department for the initial investigation, as directed by the court, or the failure to enroll in a specified program, as directed by the court or the probation department, shall result in possible further incarceration. The court, in the interests of justice, may relieve the defendant from the prohibition set forth in this subdivision based upon the defendant's mistake or excusable neglect. Application for this relief shall be filed within 20 court days of the missed deadline. This time limitation may not be extended. A copy of any application for relief shall be served on the office of the prosecuting attorney.

(3) After the court orders the defendant to a batterer's program, the probation department shall conduct an initial assessment of the defendant, including, but not limited to, all of the following:

(A) Social, economic, and family background.

(B) Education.

(C) Vocational achievements.

(D) Criminal history.

(E) Medical history.

(F) Substance abuse history.

(G) Consultation with the probation officer.

(H) Verbal consultation with the victim, only if the victim desires to participate.

(I) Assessment of the future probability of the defendant committing murder.

(4) The probation department shall attempt to notify the victim regarding the requirements for the defendant's participation in the batterer's program, as well as regarding available victim resources. The victim also shall be informed that attendance in any program does not guarantee that an abuser will not be violent.

(c) The court or the probation department shall refer defendants only to batterer's programs that follow standards outlined in paragraph (1), which may include, but are not limited to, lectures, classes, group discussions, and counseling. The probation department shall design and implement an approval and renewal process for batterer's programs and shall solicit input from criminal justice agencies and domestic violence victim advocacy programs.

(1) The goal of a batterer's program under this section shall be to stop domestic violence. A batterer's program shall consist of the following components:

(A) Strategies to hold the defendant accountable for the violence in a relationship, including, but not limited to, providing the defendant with a written statement that the defendant shall be held accountable for acts or threats of domestic violence.

(B) A requirement that the defendant participate in ongoing same-gender group sessions.

(C) An initial intake that provides written definitions to the defendant of physical, emotional, sexual, economic, and verbal abuse, and the techniques for stopping these types of abuse.

(D) Procedures to inform the victim regarding the requirements for the defendant's participation in the intervention program as well as regarding available victim resources. The victim also shall be informed that attendance in any program does not guarantee that an abuser will not be violent.

(E) A requirement that the defendant attend group sessions free of chemical influence.

(F) Educational programming that examines, at a minimum, gender roles, socialization, the nature of violence, the dynamics of power and control, and the effects of abuse on children and others.

(G) A requirement that excludes any couple counseling or family counseling, or both.

(H) Procedures that give the program the right to assess whether or not the defendant would benefit from the program and to refuse to enroll the defendant if it is determined that the defendant would not benefit from the program, so long as the refusal is not because of the defendant's inability to pay. If possible, the program shall suggest an appropriate alternative program.

(I) Program staff who, to the extent possible, have specific knowledge regarding, but not limited to, spousal abuse, child abuse, sexual abuse, substance abuse, the dynamics of violence and abuse, the law, and procedures of the legal system.

(J) Program staff who are encouraged to utilize the expertise, training, and assistance of local domestic violence centers.

(K) A requirement that the defendant enter into a written agreement with the program, which shall include an outline of the contents of the program, the attendance requirements, the requirement to attend group sessions free of chemical influence, and a statement that the defendant may be removed from the program if it is determined that the defendant is not benefiting from the program or is disruptive to the program.

(L) A requirement that the defendant sign a confidentiality statement prohibiting disclosure of any information obtained through participating in the program or during group sessions regarding other participants in the program.

(M) Program content that provides cultural and ethnic sensitivity.

(N) A requirement of a written referral from the court or probation department prior to permitting the defendant to enroll in the program. The written referral shall state the number of minimum sessions required by the court.

(O) Procedures for submitting to the probation department all of the following uniform written responses:

(i) Proof of enrollment, to be submitted to the court and the probation department and to include the fee determined to be charged to the defendant, based upon the ability to pay, for each session.

(ii) Periodic progress reports that include attendance, fee payment history, and program compliance.

(iii) Final evaluation that includes the program's evaluation of the defendant's progress, using the criteria set forth in paragraph (4) of subdivision (a) and recommendation for either successful or unsuccessful termination or continuation in the program.

(P) A sliding fee schedule based on the defendant's ability to pay. The batterer's program shall develop and utilize a sliding fee scale that recognizes both the defendant's ability to pay and the necessity of programs to meet overhead expenses. An indigent defendant may negotiate a deferred payment schedule, but shall pay a nominal fee, if the defendant has the ability to pay the nominal fee. Upon a hearing and a finding by the court that the defendant does not have the financial ability to pay the nominal fee, the court shall waive this fee. The payment of the fee shall be made a condition of probation if the court determines the defendant has the present ability to pay the fee. The fee shall be paid during the term of probation unless the program sets other conditions. The acceptance policies shall be in accordance with the scaled fee system.

(2) The court shall refer persons only to batterer's programs that have been approved by the probation department pursuant to paragraph (5). The probation department shall do both of the following:

(A) Provide for the issuance of a provisional approval, provided that the applicant is in substantial compliance with applicable laws and

regulations and an urgent need for approval exists. A provisional approval shall be considered an authorization to provide services and shall not be considered a vested right.

(B) If the probation department determines that a program is not in compliance with standards set by the department, the department shall provide written notice of the noncompliant areas to the program. The program shall submit a written plan of corrections within 14 days from the date of the written notice on noncompliance. A plan of correction shall include, but not be limited to, a description of each corrective action and timeframe for implementation. The department shall review and approve all or any part of the plan of correction and notify the program of approval or disapproval in writing. If the program fails to submit a plan of correction or fails to implement the approved plan of correction, the department shall consider whether to revoke or suspend approval and, upon revoking or suspending approval, shall have the option to cease referrals of defendants under this section.

(3) No program, regardless of its source of funding, shall be approved unless it meets all of the following standards:

(A) The establishment of guidelines and criteria for education services, including standards of services that may include lectures, classes, and group discussions.

(B) Supervision of the defendant for the purpose of evaluating the person's progress in the program.

(C) Adequate reporting requirements to ensure that all persons who, after being ordered to attend and complete a program, may be identified for either failure to enroll in, or failure to successfully complete, the program or for the successful completion of the program as ordered. The program shall notify the court and the probation department, in writing, within the period of time and in the manner specified by the court of any person who fails to complete the program. Notification shall be given if the program determines that the defendant is performing unsatisfactorily or if the defendant is not benefiting from the education, treatment, or counseling.

(D) No victim shall be compelled to participate in a program or counseling, and no program may condition a defendant's enrollment on participation by the victim.

(4) In making referrals of indigent defendants to approved batterer's programs, the probation department shall apportion these referrals evenly among the approved programs.

(5) The probation department shall have the sole authority to approve a batterer's program for probation. The program shall be required to obtain only one approval but shall renew that approval annually.

(A) The procedure for the approval of a new or existing program shall include all of the following:

(i) The completion of a written application containing necessary and pertinent information describing the applicant program.

(ii) The demonstration by the program that it possesses adequate administrative and operational capability to operate a batterer's treatment program. The program shall provide documentation to prove that the program has conducted batterer's programs for at least one year prior to application. This requirement may be waived under subparagraph (A) of paragraph (2) if there is no existing batterer's program in the city, county, or city and county.

(iii) The onsite review of the program, including monitoring of a session to determine that the program adheres to applicable statutes and regulations.

(iv) The payment of the approval fee.

(B) The probation department shall fix a fee for approval not to exceed two hundred fifty dollars ($250) and for approval renewal not to exceed two hundred fifty dollars ($250) every year in an amount sufficient to cover its costs in administering the approval process under this section. No fee shall be charged for the approval of local governmental entities.

(C) The probation department has the sole authority to approve the issuance, denial, suspension, or revocation of approval and to cease new enrollments or referrals to a batterer's program under this section. The probation department shall review information relative to a program's performance or failure to adhere to standards, or both. The probation department may suspend or revoke any approval issued under this subdivision or deny an application to renew an approval or to modify the terms and conditions of approval, based on grounds established by probation, including, but not limited to, either of the following:

(i) Violation of this section by any person holding approval or by a program employee in a program under this section.

(ii) Misrepresentation of any material fact in obtaining the approval.

(6) For defendants who are chronic users or serious abusers of drugs or alcohol, standard components in the program shall include concurrent counseling for substance abuse and violent behavior, and in appropriate cases, detoxification and abstinence from the abused substance.

(7) The program shall conduct an exit conference that assesses the defendant's progress during his or her participation in the batterer's program.

(d) This section shall remain in effect only until January 1, 2010, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2010, deletes or extends that date.

SEC. 43. Section 1203.097 of the Penal Code, as amended by Section 6 of Chapter 476 of the Statutes of 2006, is amended to read:

1203.097. (a) If a person is granted probation for a crime in which the victim is a person defined in Section 6211 of the Family Code, the terms of probation shall include all of the following:

(1) A minimum period of probation of 36 months, which may include a period of summary probation as appropriate.

(2) A criminal court protective order protecting the victim from further acts of violence, threats, stalking, sexual abuse, and harassment, and, if appropriate, containing residence exclusion or stay-away conditions.

(3) Notice to the victim of the disposition of the case.

(4) Booking the defendant within one week of sentencing if the defendant has not already been booked.

(5) A minimum payment by the defendant of two hundred dollars ($200) to be disbursed as specified in this paragraph. If, after a hearing in court on the record, the court finds that the defendant does not have the ability to pay, the court may reduce or waive this fee.

One-third of the moneys deposited with the county treasurer pursuant to this section shall be retained by counties and deposited in the domestic violence programs special fund created pursuant to Section 18305 of the Welfare and Institutions Code, to be expended for the purposes of Chapter 5 (commencing with Section 18290) of Part 6 of Division 9 of the Welfare and Institutions Code. The remainder shall be transferred, once a month, to the Controller for deposit in equal amounts in the Domestic Violence Restraining Order Reimbursement Fund and in the Domestic Violence Training and Education Fund, which are hereby created, in an amount equal to two-thirds of funds collected during the preceding month. Moneys deposited into these funds pursuant to this section shall be available upon appropriation by the Legislature and shall be distributed each fiscal year as follows:

(A) Funds from the Domestic Violence Restraining Order Reimbursement Fund shall be distributed to local law enforcement or other criminal justice agencies for state-mandated local costs resulting from the notification requirements set forth in subdivision (b) of Section 6380 of the Family Code, based on the annual notification from the Department of Justice of the number of restraining orders issued and registered in the state domestic violence restraining order registry maintained by the Department of Justice, for the development and maintenance of the domestic violence restraining order databank system.

(B) Funds from the Domestic Violence Training and Education Fund shall support a statewide training and education program to increase public awareness of domestic violence and to improve the scope and quality of services provided to the victims of domestic violence. Grants

to support this program shall be awarded on a competitive basis and be administered by the State Department of Public Health, in consultation with the statewide domestic violence coalition, which is eligible to receive funding under this section.

(6) Successful completion of a batterer's program, as defined in subdivision (c), or if none is available, another appropriate counseling program designated by the court, for a period not less than one year with periodic progress reports by the program to the court every three months or less and weekly sessions of a minimum of two hours class time duration. The defendant shall attend consecutive weekly sessions, unless granted an excused absence for good cause by the program for no more than three individual sessions during the entire program, and shall complete the program within 18 months, unless, after a hearing, the court finds good cause to modify the requirements of consecutive attendance or completion within 18 months.

(7) (A) (i) The court shall order the defendant to comply with all probation requirements, including the requirements to attend counseling, keep all program appointments, and pay program fees based upon the ability to pay.

(ii) The terms of probation for offenders shall not be lifted until all reasonable fees due to the counseling program have been paid in full, but in no case shall probation be extended beyond the term provided in subdivision (a) of Section 1203.1. If the court finds that the defendant does not have the ability to pay the fees based on the defendant's changed circumstances, the court may reduce or waive the fees.

(B) Upon request by the batterer's program, the court shall provide the defendant's arrest report, prior incidents of violence, and treatment history to the program.

(8) The court also shall order the defendant to perform a specified amount of appropriate community service, as designated by the court. The defendant shall present the court with proof of completion of community service and the court shall determine if the community service has been satisfactorily completed. If sufficient staff and resources are available, the community service shall be performed under the jurisdiction of the local agency overseeing a community service program.

(9) If the program finds that the defendant is unsuitable, the program shall immediately contact the probation department or the court. The probation department or court shall either recalendar the case for hearing or refer the defendant to an appropriate alternative batterer's program.

(10) (A) Upon recommendation of the program, a court shall require a defendant to participate in additional sessions throughout the probationary period, unless it finds that it is not in the interests of justice to do so, states its reasons on the record, and enters them into the minutes.

In deciding whether the defendant would benefit from more sessions, the court shall consider whether any of the following conditions exist:

(i) The defendant has been violence free for a minimum of six months.

(ii) The defendant has cooperated and participated in the batterer's program.

(iii) The defendant demonstrates an understanding of and practices positive conflict resolution skills.

(iv) The defendant blames, degrades, or has committed acts that dehumanize the victim or puts at risk the victim's safety, including, but not limited to, molesting, stalking, striking, attacking, threatening, sexually assaulting, or battering the victim.

(v) The defendant demonstrates an understanding that the use of coercion or violent behavior to maintain dominance is unacceptable in an intimate relationship.

(vi) The defendant has made threats to harm anyone in any manner.

(vii) The defendant has complied with applicable requirements under paragraph (6) of subdivision (c) or subparagraph (C) to receive alcohol counseling, drug counseling, or both.

(viii) The defendant demonstrates acceptance of responsibility for the abusive behavior perpetrated against the victim.

(B) The program shall immediately report any violation of the terms of the protective order, including any new acts of violence or failure to comply with the program requirements, to the court, the prosecutor, and, if formal probation has been ordered, to the probation department. The probationer shall file proof of enrollment in a batterer's program with the court within 30 days of conviction.

(C) Concurrent with other requirements under this section, in addition to, and not in lieu of, the batterer's program, and unless prohibited by the referring court, the probation department or the court may make provisions for a defendant to use his or her resources to enroll in a chemical dependency program or to enter voluntarily a licensed chemical dependency recovery hospital or residential treatment program that has a valid license issued by the state to provide alcohol or drug services to receive program participation credit, as determined by the court. The probation department shall document evidence of this hospital or residential treatment participation in the defendant's program file.

(11) The conditions of probation may include, in lieu of a fine, but not in lieu of the fund payment required under paragraph (5), one or more of the following requirements:

(A) That the defendant make payments to a battered women's shelter, up to a maximum of five thousand dollars ($5,000).

(B) That the defendant reimburse the victim for reasonable expenses that the court finds are the direct result of the defendant's offense.

For any order to pay a fine, to make payments to a battered women's shelter, or to pay restitution as a condition of probation under this subdivision, the court shall make a determination of the defendant's ability to pay. Determination of a defendant's ability to pay may include his or her future earning capacity. A defendant shall bear the burden of demonstrating lack of his or her ability to pay. Express findings by the court as to the factors bearing on the amount of the fine shall not be required. In no event shall any order to make payments to a battered women's shelter be made if it would impair the ability of the defendant to pay direct restitution to the victim or court-ordered child support. When the injury to a married person is caused, in whole or in part, by the criminal acts of his or her spouse in violation of this section, the community property shall not be used to discharge the liability of the offending spouse for restitution to the injured spouse, as required by Section 1203.04, as operative on or before August 2, 1995, or Section 1202.4, or to a shelter for costs with regard to the injured spouse, until all separate property of the offending spouse is exhausted.

(12) If it appears to the prosecuting attorney, the court, or the probation department that the defendant is performing unsatisfactorily in the assigned program, is not benefiting from counseling, or has engaged in criminal conduct, upon request of the probation officer, the prosecuting attorney, or on its own motion, the court, as a priority calendar item, shall hold a hearing to determine whether further sentencing should proceed. The court may consider factors, including, but not limited to, any violence by the defendant against the former or a new victim while on probation and noncompliance with any other specific condition of probation. If the court finds that the defendant is not performing satisfactorily in the assigned program, is not benefiting from the program, has not complied with a condition of probation, or has engaged in criminal conduct, the court shall terminate the defendant's participation in the program and shall proceed with further sentencing.

(b) If a person is granted formal probation for a crime in which the victim is a person defined in Section 6211 of the Family Code, in addition to the terms specified in subdivision (a), all of the following shall apply:

(1) The probation department shall make an investigation and take into consideration the defendant's age, medical history, employment and service records, educational background, community and family ties, prior incidents of violence, police report, treatment history, if any, demonstrable motivation, and other mitigating factors in determining which batterer's program would be appropriate for the defendant. This information shall be provided to the batterer's program if it is requested. The probation department shall also determine which community programs the defendant would benefit from and which of those programs

would accept the defendant. The probation department shall report its findings and recommendations to the court.

(2) The court shall advise the defendant that the failure to report to the probation department for the initial investigation, as directed by the court, or the failure to enroll in a specified program, as directed by the court or the probation department, shall result in possible further incarceration. The court, in the interests of justice, may relieve the defendant from the prohibition set forth in this subdivision based upon the defendant's mistake or excusable neglect. Application for this relief shall be filed within 20 court days of the missed deadline. This time limitation may not be extended. A copy of any application for relief shall be served on the office of the prosecuting attorney.

(3) After the court orders the defendant to a batterer's program, the probation department shall conduct an initial assessment of the defendant, including, but not limited to, all of the following:

(A) Social, economic, and family background.

(B) Education.

(C) Vocational achievements.

(D) Criminal history.

(E) Medical history.

(F) Substance abuse history.

(G) Consultation with the probation officer.

(H) Verbal consultation with the victim, only if the victim desires to participate.

(I) Assessment of the future probability of the defendant committing murder.

(4) The probation department shall attempt to notify the victim regarding the requirements for the defendant's participation in the batterer's program, as well as regarding available victim resources. The victim also shall be informed that attendance in any program does not guarantee that an abuser will not be violent.

(c) The court or the probation department shall refer defendants only to batterer's programs that follow standards outlined in paragraph (1), which may include, but are not limited to, lectures, classes, group discussions, and counseling. The probation department shall design and implement an approval and renewal process for batterer's programs and shall solicit input from criminal justice agencies and domestic violence victim advocacy programs.

(1) The goal of a batterer's program under this section shall be to stop domestic violence. A batterer's program shall consist of the following components:

(A) Strategies to hold the defendant accountable for the violence in a relationship, including, but not limited to, providing the defendant with

a written statement that the defendant shall be held accountable for acts or threats of domestic violence.

(B) A requirement that the defendant participate in ongoing same-gender group sessions.

(C) An initial intake that provides written definitions to the defendant of physical, emotional, sexual, economic, and verbal abuse, and the techniques for stopping these types of abuse.

(D) Procedures to inform the victim regarding the requirements for the defendant's participation in the intervention program as well as regarding available victim resources. The victim also shall be informed that attendance in any program does not guarantee that an abuser will not be violent.

(E) A requirement that the defendant attend group sessions free of chemical influence.

(F) Educational programming that examines, at a minimum, gender roles, socialization, the nature of violence, the dynamics of power and control, and the effects of abuse on children and others.

(G) A requirement that excludes any couple counseling or family counseling, or both.

(H) Procedures that give the program the right to assess whether or not the defendant would benefit from the program and to refuse to enroll the defendant if it is determined that the defendant would not benefit from the program, so long as the refusal is not because of the defendant's inability to pay. If possible, the program shall suggest an appropriate alternative program.

(I) Program staff who, to the extent possible, have specific knowledge regarding, but not limited to, spousal abuse, child abuse, sexual abuse, substance abuse, the dynamics of violence and abuse, the law, and procedures of the legal system.

(J) Program staff who are encouraged to utilize the expertise, training, and assistance of local domestic violence centers.

(K) A requirement that the defendant enter into a written agreement with the program, which shall include an outline of the contents of the program, the attendance requirements, the requirement to attend group sessions free of chemical influence, and a statement that the defendant may be removed from the program if it is determined that the defendant is not benefiting from the program or is disruptive to the program.

(L) A requirement that the defendant sign a confidentiality statement prohibiting disclosure of any information obtained through participating in the program or during group sessions regarding other participants in the program.

(M) Program content that provides cultural and ethnic sensitivity.

(N) A requirement of a written referral from the court or probation department prior to permitting the defendant to enroll in the program. The written referral shall state the number of minimum sessions required by the court.

(O) Procedures for submitting to the probation department all of the following uniform written responses:

(i) Proof of enrollment, to be submitted to the court and the probation department and to include the fee determined to be charged to the defendant, based upon the ability to pay, for each session.

(ii) Periodic progress reports that include attendance, fee payment history, and program compliance.

(iii) Final evaluation that includes the program's evaluation of the defendant's progress, using the criteria set forth in paragraph (4) of subdivision (a) and recommendation for either successful or unsuccessful termination or continuation in the program.

(P) A sliding fee schedule based on the defendant's ability to pay. The batterer's program shall develop and utilize a sliding fee scale that recognizes both the defendant's ability to pay and the necessity of programs to meet overhead expenses. An indigent defendant may negotiate a deferred payment schedule, but shall pay a nominal fee, if the defendant has the ability to pay the nominal fee. Upon a hearing and a finding by the court that the defendant does not have the financial ability to pay the nominal fee, the court shall waive this fee. The payment of the fee shall be made a condition of probation if the court determines the defendant has the present ability to pay the fee. The fee shall be paid during the term of probation unless the program sets other conditions. The acceptance policies shall be in accordance with the scaled fee system.

(2) The court shall refer persons only to batterer's programs that have been approved by the probation department pursuant to paragraph (5). The probation department shall do both of the following:

(A) Provide for the issuance of a provisional approval, provided that the applicant is in substantial compliance with applicable laws and regulations and an urgent need for approval exists. A provisional approval shall be considered an authorization to provide services and shall not be considered a vested right.

(B) If the probation department determines that a program is not in compliance with standards set by the department, the department shall provide written notice of the noncompliant areas to the program. The program shall submit a written plan of corrections within 14 days from the date of the written notice on noncompliance. A plan of correction shall include, but not be limited to, a description of each corrective action and timeframe for implementation. The department shall review and approve all or any part of the plan of correction and notify the program

of approval or disapproval in writing. If the program fails to submit a plan of correction or fails to implement the approved plan of correction, the department shall consider whether to revoke or suspend approval and, upon revoking or suspending approval, shall have the option to cease referrals of defendants under this section.

(3) No program, regardless of its source of funding, shall be approved unless it meets all of the following standards:

(A) The establishment of guidelines and criteria for education services, including standards of services that may include lectures, classes, and group discussions.

(B) Supervision of the defendant for the purpose of evaluating the person's progress in the program.

(C) Adequate reporting requirements to ensure that all persons who, after being ordered to attend and complete a program, may be identified for either failure to enroll in, or failure to successfully complete, the program or for the successful completion of the program as ordered. The program shall notify the court and the probation department, in writing, within the period of time and in the manner specified by the court of any person who fails to complete the program. Notification shall be given if the program determines that the defendant is performing unsatisfactorily or if the defendant is not benefiting from the education, treatment, or counseling.

(D) No victim shall be compelled to participate in a program or counseling, and no program may condition a defendant's enrollment on participation by the victim.

(4) In making referrals of indigent defendants to approved batterer's programs, the probation department shall apportion these referrals evenly among the approved programs.

(5) The probation department shall have the sole authority to approve a batterer's program for probation. The program shall be required to obtain only one approval but shall renew that approval annually.

(A) The procedure for the approval of a new or existing program shall include all of the following:

(i) The completion of a written application containing necessary and pertinent information describing the applicant program.

(ii) The demonstration by the program that it possesses adequate administrative and operational capability to operate a batterer's treatment program. The program shall provide documentation to prove that the program has conducted batterer's programs for at least one year prior to application. This requirement may be waived under subparagraph (A) of paragraph (2) if there is no existing batterer's program in the city, county, or city and county.

(iii) The onsite review of the program, including monitoring of a session to determine that the program adheres to applicable statutes and regulations.

(iv) The payment of the approval fee.

(B) The probation department shall fix a fee for approval not to exceed two hundred fifty dollars ($250) and for approval renewal not to exceed two hundred fifty dollars ($250) every year in an amount sufficient to cover its costs in administering the approval process under this section. No fee shall be charged for the approval of local governmental entities.

(C) The probation department has the sole authority to approve the issuance, denial, suspension, or revocation of approval and to cease new enrollments or referrals to a batterer's program under this section. The probation department shall review information relative to a program's performance or failure to adhere to standards, or both. The probation department may suspend or revoke any approval issued under this subdivision or deny an application to renew an approval or to modify the terms and conditions of approval, based on grounds established by probation, including, but not limited to, either of the following:

(i) Violation of this section by any person holding approval or by a program employee in a program under this section.

(ii) Misrepresentation of any material fact in obtaining the approval.

(6) For defendants who are chronic users or serious abusers of drugs or alcohol, standard components in the program shall include concurrent counseling for substance abuse and violent behavior, and in appropriate cases, detoxification and abstinence from the abused substance.

(7) The program shall conduct an exit conference that assesses the defendant's progress during his or her participation in the batterer's program.

(d) This section shall become operative on January 1, 2010.

SEC. 44. Section 7501 of the Penal Code is amended to read:

7501. In order to address the public health crisis described in Section 7500, it is the intent of the Legislature to do all of the following:

(a) Establish a procedure through which custodial and law enforcement personnel are required to report certain situations and may request and be granted a confidential test for HIV or for hepatitis B or C of an inmate convicted of a crime, or a person arrested or taken into custody, if the custodial or law enforcement officer has reason to believe that he or she has come into contact with the blood or semen of an inmate or in any other manner has come into contact with the inmate in a way that could result in HIV infection, or the transmission of hepatitis B or C, based on the latest determinations and conclusions by the federal Centers for Disease Control and Prevention and the State Department of Public Health on means for the transmission of AIDS or hepatitis B and C, and

if appropriate medical authorities, as provided in this title, reasonably believe there is good medical reason for the test.

(b) Permit inmates to file similar requests stemming from contacts with other inmates.

(c) Require that probation and parole officers be notified when an inmate being released from incarceration is infected with AIDS or hepatitis B or C, and permit these officers to notify certain persons who will come into contact with the parolee or probationer, if authorized by law.

(d) Authorize prison medical staff authorities to require tests of a jail or prison inmate under certain circumstances, if they reasonably believe, based upon the existence of supporting evidence, that the inmate may be suffering from HIV infection or AIDS or hepatitis B or C and is a danger to other inmates or staff.

(e) Require supervisory and medical personnel of correctional institutions to which this title applies to notify staff if they are coming into close and direct contact with persons in custody who have tested positive or who have AIDS or hepatitis B or C, and provide appropriate counseling and safety equipment.

SEC. 45. Section 7502 of the Penal Code is amended to read:

7502. As used in this title, the following terms shall have the following meanings:

(a) "Correctional institution" means any state prison, county jail, city jail, Division of Juvenile Justice facility, county- or city-operated juvenile facility, including juvenile halls, camps, or schools, or any other state or local correctional institution, including a court facility.

(b) "Counseling" means counseling by a licensed physician and surgeon, registered nurse, or other health professional who meets guidelines which shall be established by the State Department of Public Health for purposes of providing counseling on AIDS and hepatitis B and C to inmates, persons in custody, and other persons pursuant to this title.

(c) "Law enforcement employee" means correctional officers, peace officers, and other staff of a correctional institution, California Highway Patrol officers, county sheriff's deputies, city police officers, parole officers, probation officers, and city, county, or state employees including but not limited to, judges, bailiffs, court personnel, prosecutors and staff, and public defenders and staff, who, as part of the judicial process involving an inmate of a correctional institution, or a person charged with a crime, including a minor charged with an offense for which he or she may be made a ward of the court under Section 602 of the Welfare and Institutions Code, are engaged in the custody, transportation, prosecution, representation, or care of these persons.

(d) "AIDS" means acquired immune deficiency syndrome.

(e) "Human immunodeficiency virus" or "HIV" means the etiologic virus of AIDS.

(f) "HIV test" or "HIV testing" means any clinical laboratory test approved by the federal Food and Drug Administration for HIV, component of HIV, or antibodies to HIV.

(g) "Inmate" means any of the following:

(1) A person in a state prison, or city and county jail, who has been either convicted of a crime or arrested or taken into custody, whether or not he or she has been charged with a crime.

(2) Any person in a Division of Juvenile Justice facility, or county- or city-operated juvenile facility, who has committed an act, or been charged with committing an act specified in Section 602 of the Welfare and Institutions Code.

(h) "Bodily fluids" means blood, semen, or any other bodily fluid identified by either the federal Centers for Disease Control and Prevention or State Department of Public Health in appropriate regulations as capable of transmitting HIV or hepatitis B or C.

(i) "Minor" means a person under 15 years of age.

SEC. 46. Section 7510 of the Penal Code is amended to read:

7510. (a) A law enforcement employee who believes that he or she came into contact with bodily fluids of either an inmate of a correctional institution, a person not in a correctional institution who has been arrested or taken into custody whether or not the person has been charged with a crime, including a person detained for or charged with an offense for which he or she may be made a ward of the court under Section 602 of the Welfare and Institutions Code, a person charged with any crime, whether or not the person is in custody, or a person on probation or parole due to conviction of a crime, shall report the incident through the completion of a form provided by the State Department of Public Health. The form shall be directed to the chief medical officer, as defined in subdivision (c), who serves the applicable law enforcement employee. Utilizing this form the law enforcement employee may request a test for HIV or hepatitis B or C of the person who is the subject of the report. The forms may be combined with regular incident reports or other forms used by the correctional institution or law enforcement agency, however the processing of a form by the chief medical officer containing a request for HIV or hepatitis B or C testing of the subject person shall not be delayed by the processing of other reports or forms.

(b) The report required by subdivision (a) shall be submitted by the end of the law enforcement employee's shift during which the incident occurred, or if not practicable, as soon as possible, but no longer than two days after the incident, except that the chief medical officer may

waive this filing period requirement if he or she finds that good cause exists. The report shall include names of witnesses to the incident, names of persons involved in the incident, and if feasible, any written statements from these parties. The law enforcement employee shall assist in the investigation of the incident, as requested by the chief medical officer.

(c) For purposes of this section, Section 7502, and Section 7511, "chief medical officer" means:

(1) In the case of a report filed by a staff member of a state prison, the chief medical officer of that facility.

(2) In the case of a parole officer filing a report, the chief medical officer of the nearest state prison.

(3) In the case of a report filed by an employee of the Division of Juvenile Justice, the chief medical officer of the facility.

(4) In the case of a report filed against a subject who is an inmate of a city or county jail or a county- or city-operated juvenile facility, or a court facility, or who has been arrested or taken into custody whether or not the person has been charged with a crime, but who is not in a correctional facility, including a person detained for, or charged with, an offense for which he or she may be made a ward of the court under Section 602 of the Welfare and Institutions Code, or a person charged with a crime, whether or not the person is in custody, the county health officer of the county in which the individual is jailed or charged with the crime.

(5) In the case of a report filed by a probation officer, a prosecutor or staff person, a public defender attorney or staff person, the county health officer of the county in which the probation officer, prosecutor or staff person, a public defender attorney or staff person, is employed.

(6) In any instance where the chief medical officer, as determined pursuant to this subdivision, is not a physician and surgeon, the chief medical officer shall designate a physician and surgeon to perform his or her duties under this title.

SEC. 47. Section 13823.15 of the Penal Code is amended to read:

13823.15. (a) The Legislature finds the problem of domestic violence to be of serious and increasing magnitude. The Legislature also finds that existing domestic violence services are underfunded and that some areas of the state are unserved or underserved. Therefore, it is the intent of the Legislature that a goal or purpose of the Office of Emergency Services (OES) shall be to ensure that all victims of domestic violence served by the OES Comprehensive Statewide Domestic Violence Program receive comprehensive, quality services.

(b) There is in the OES a Comprehensive Statewide Domestic Violence Program. The goals of the program shall be to provide local assistance to existing service providers, to maintain and expand services

based on a demonstrated need, and to establish a targeted or directed program for the development and establishment of domestic violence services in currently unserved and underserved areas. The OES shall provide financial and technical assistance to local domestic violence centers in implementing all of the following services:

(1) Twenty-four-hour crisis hotlines.
(2) Counseling.
(3) Business centers.
(4) Emergency "safe" homes or shelters for victims and families.
(5) Emergency food and clothing.
(6) Emergency response to calls from law enforcement.
(7) Hospital emergency room protocol and assistance.
(8) Emergency transportation.
(9) Supportive peer counseling.
(10) Counseling for children.
(11) Court and social service advocacy.
(12) Legal assistance with temporary restraining orders, devices, and custody disputes.
(13) Community resource and referral.
(14) Household establishment assistance.

Priority for financial and technical assistance shall be given to emergency shelter programs and "safe" homes for victims of domestic violence and their children.

(c) Except as provided in subdivision (f), the OES and the advisory committee established pursuant to Section 13823.16 shall collaboratively administer the Comprehensive Statewide Domestic Violence Program, and shall allocate funds to local centers meeting the criteria for funding. All organizations funded pursuant to this section shall utilize volunteers to the greatest extent possible.

The centers may seek, receive, and make use of any funds which may be available from all public and private sources to augment any state funds received pursuant to this section.

Centers receiving funding shall provide cash or an in-kind match of at least 10 percent of the funds received pursuant to this section.

(d) The OES shall conduct statewide training workshops on domestic violence for local centers, law enforcement, and other service providers designed to enhance service programs. The workshops shall be planned in conjunction with practitioners and experts in the field of domestic violence prevention. The workshops shall include a curriculum component on lesbian, gay, bisexual, and transgender specific domestic abuse.

(e) The OES shall develop and disseminate throughout the state information and materials concerning domestic violence. The OES shall

also establish a resource center for the collection, retention, and distribution of educational materials related to domestic violence. The OES may utilize and contract with existing domestic violence technical assistance centers in this state in complying with the requirements of this subdivision.

(f) The funding process for distributing grant awards to domestic violence shelter service providers (DVSSPs) shall be administered by the OES as follows:

(1) The OES shall establish each of the following:

(A) The process and standards for determining whether to grant, renew, or deny funding to any DVSSP applying or reapplying for funding under the terms of the program.

(B) For DVSSPs applying for grants under the request for proposal process described in paragraph (2), a system for grading grant applications in relation to the standards established pursuant to subparagraph (A), and an appeal process for applications that are denied. A description of this grading system and appeal process shall be provided to all DVSSPs as part of the application required under the RFP process.

(C) For DVSSPs reapplying for funding under the request for application process described in paragraph (4), a system for grading the performance of DVSSPs in relation to the standards established pursuant to subparagraph (A), and an appeal process for decisions to deny or reduce funding. A description of this grading system and appeal process shall be provided to all DVSSPs receiving grants under this program.

(2) Grants for shelters that were not funded in the previous cycle shall be awarded as a result of a competitive request for proposal (RFP) process. The RFP process shall comply with all applicable state and federal statutes for domestic violence shelter funding, and to the extent possible, the response to the RFP shall not exceed 25 narrative pages, excluding attachments.

(3) Grants shall be awarded to DVSSPs that propose to maintain shelters or services previously granted funding pursuant to this section, to expand existing services or create new services, or to establish new domestic violence shelters in underserved or unserved areas. Each grant shall be awarded for a three-year term.

(4) DVSSPs reapplying for grants shall not be subject to a competitive grant process, but shall be subject to a request for application (RFA) process. The RFA process shall consist in part of an assessment of the past performance history of the DVSSP in relation to the standards established pursuant to paragraph (1). The RFA process shall comply with all applicable state and federal statutes for domestic violence center funding, and to the extent possible, the response to the RFA shall not exceed 10 narrative pages, excluding attachments.

(5) Any DVSSP funded through this program in the previous grant cycle, including any DVSSP funded by Chapter 707 of the Statutes of 2001, shall be funded upon reapplication, unless, pursuant to the assessment required under the RFA process, its past performance history fails to meet the standards established by the OES pursuant to paragraph (1).

(6) The OES shall conduct a minimum of one site visit every three years for each DVSSP funded pursuant to this subdivision. The purpose of the site visit shall be to conduct a performance assessment of, and provide subsequent technical assistance for, each shelter visited. The performance assessment shall include, but need not be limited to, a review of all of the following:

(A) Progress in meeting program goals and objectives.

(B) Agency organization and facilities.

(C) Personnel policies, files, and training.

(D) Recordkeeping, budgeting, and expenditures.

(E) Documentation, data collection, and client confidentiality.

(7) After each site visit conducted pursuant to paragraph (6), the OES shall provide a written report to the DVSSP summarizing the performance of the DVSSP, any deficiencies noted, any corrective action needed, and a deadline for corrective action to be completed. The OES shall also develop a corrective action plan for verifying the completion of any corrective action required. The OES shall submit its written report to the DVSSP no more than 60 days after the site visit. No grant under the RFA process shall be denied if the DVSSP has not received a site visit during the previous three years, unless the OES is aware of criminal violations relative to the administration of grant funding.

(8) If an agency receives funding from both the Comprehensive Statewide Domestic Violence Program in the Office of Emergency Services and the Maternal and Child Health Branch of the State Department of Public Health during any grant cycle, the Comprehensive Statewide Domestic Violence Program and the Maternal and Child Health Branch shall, to the extent feasible, coordinate agency site visits and share performance assessment data with the goal of improving efficiency, eliminating duplication, and reducing administrative costs.

(9) DVSSPs receiving written reports of deficiencies or orders for corrective action after a site visit shall be given no less than six months' time to take corrective action before the deficiencies or failure to correct may be considered in the next RFA process. However, the OES shall have the discretion to reduce the time to take corrective action in cases where the deficiencies present a significant health or safety risk or when other severe circumstances are found to exist. If corrective action is deemed necessary, and a DVSSP fails to comply, or if other deficiencies

exist that, in the judgment of the OES, cannot be corrected, the OES shall determine, using its grading system, whether continued funding for the DVSSP should be reduced or denied altogether. If a DVSSP has been determined to be deficient, the OES may, at any point during the DVSSP's funding cycle following the expiration of the period for corrective action, deny or reduce any further funding.

(10) If a DVSSP applies or reapplies for funding pursuant to this section and that funding is denied or reduced, the decision to deny or reduce funding shall be provided in writing to the DVSSP, along with a written explanation of the reasons for the reduction or denial made in accordance with the grading system for the RFP or RFA process. Except as otherwise provided, any appeal of the decision to deny or reduce funding shall be made in accordance with the appeal process established by the OES. The appeal process shall allow a DVSSP a minimum of 30 days to appeal after a decision to deny or reduce funding. All pending appeals shall be resolved before final funding decisions are reached.

(11) It is the intent of the Legislature that priority for additional funds that become available shall be given to currently funded, new, or previously unfunded DVSSPs for expansion of services. However, the OES may determine when expansion is needed to accommodate underserved or unserved areas. If supplemental funding is unavailable, the OES shall have the authority to lower the base level of grants to all currently funded DVSSPs in order to provide funding for currently funded, new, or previously unfunded DVSSPs that will provide services in underserved or unserved areas. However, to the extent reasonable, funding reductions shall be reduced proportionately among all currently funded DVSSPs. After the amount of funding reductions has been determined, DVSSPs that are currently funded and those applying for funding shall be notified of changes in the available level of funding prior to the next application process. Funding reductions made under this paragraph shall not be subject to appeal.

(12) Notwithstanding any other provision of this section, OES may reduce funding to a DVSSP funded pursuant to this section if federal funding support is reduced. Funding reductions as a result of a reduction in federal funding shall not be subject to appeal.

(13) Nothing in this section shall be construed to supersede any function or duty required by federal acts, rules, regulations, or guidelines for the distribution of federal grants.

(14) As a condition of receiving funding pursuant to this section, DVSSPs shall do all of the following:

(A) Provide matching funds or in-kind contributions equivalent to not less than 10 percent of the grant they would receive. The matching

funds or in-kind contributions may come from other governmental or private sources.

(B) Ensure that appropriate staff and volunteers having client contact meet the definition of "domestic violence counselor" as specified in subdivision (a) of Section 1037.1 of the Evidence Code. The minimum training specified in paragraph (2) of subdivision (a) of Section 1037.1 of the Evidence Code shall be provided to those staff and volunteers who do not meet the requirements of paragraph (1) of subdivision (a) of Section 1037.1 of the Evidence Code.

(15) The following definitions shall apply for purposes of this subdivision:

(A) "Domestic violence" means the infliction or threat of physical harm against past or present adult or adolescent female intimate partners, including physical, sexual, and psychological abuse against the woman, and is a part of a pattern of assaultive, coercive, and controlling behaviors directed at achieving compliance from or control over that woman.

(B) "Domestic violence shelter service provider" or "DVSSP" means a victim services provider that operates an established system of services providing safe and confidential emergency housing on a 24-hour basis for victims of domestic violence and their children, including, but not limited to, hotel or motel arrangements, haven, and safe houses.

(C) "Emergency shelter" means a confidential or safe location that provides emergency housing on a 24-hour basis for victims of domestic violence and their children.

(g) The OES may hire the support staff and utilize all resources necessary to carry out the purposes of this section. The OES shall not utilize more than 10 percent of any funds appropriated for the purpose of the program established by this section for the administration of that program.

SEC. 48. Section 13557 of the Water Code is amended to read:

13557. (a) On or before July 1, 2008, the department, in consultation with the State Department of Public Health, shall adopt and submit to the California Building Standards Commission regulations to establish a state version of Appendix J of the Uniform Plumbing Code adopted by the International Association of Plumbing and Mechanical Officials to provide design standards to safely plumb buildings with both potable and recycled water systems.

(b) The department shall adopt regulations pursuant to subdivision (a) only if the Legislature appropriates funds for that purpose.

SEC. 49. Section 32601 of the Water Code is amended to read:

32601. (a) The Legislature hereby finds and declares that the use of potable domestic water for nonpotable uses for cemeteries, parks, highway landscaped areas, new industrial facilities, and golf course

irrigation is a waste and an unreasonable use of the water within the meaning of Section 2 of Article X of the California Constitution, if nonpotable water, including recycled water, is available under all of the following conditions as determined by the board, after notice to any person or local public agency that may be ordered to use nonpotable water or to cease using potable water and a hearing held by the board if requested by the person or local public agency:

(1) The board determines that the source of nonpotable water is of adequate quality for the proposed use and is available for that use. In determining adequate quality, the board shall consider all relevant factors, including, but not limited to, food and employee safety, and level and types of specific constituents in the nonpotable water affecting the use, on a user-by-user basis. In addition, the board shall consider the effect of the use of nonpotable water in lieu of potable water on the generation of hazardous waste and on the quality of wastewater discharges subject to permit.

(2) The board determines that the nonpotable water may be furnished for the proposed use at a reasonable cost to the user. In determining reasonable cost, the board shall consider all relevant factors, including, but not limited to, the present and projected costs of supplying, delivering, and treating potable domestic water for the proposed use and the present and projected costs of supplying and delivering nonpotable water for that use, and finds that the cost of supplying the nonpotable water is comparable to, or less than, the cost of supplying potable domestic water.

(3) The State Department of Public Health determines that the use of nonpotable water from the proposed source will not be detrimental to public health.

(4) The California regional water quality control board determines that the use of nonpotable water from the proposed source will comply with any applicable water quality control plan.

(5) The board determines that the use of nonpotable water for the proposed use will not adversely affect groundwater rights, will not degrade water quality, and is determined not to be injurious to plant life, fish, and wildlife.

(b) In making the determination described in subdivision (a), the board shall consider the impact of the cost and quality of the nonpotable water on each individual user.

(c) The board may require a person or public agency to furnish information that the board determines to be relevant to making the determinations described in subdivision (a).

SEC. 50. Section 14043.46 of the Welfare and Institutions Code is amended to read:

14043.46. (a) Notwithstanding any other provision of law, on the effective date of the act adding this section, the department may implement a one-year moratorium on the certification and enrollment into the Medi-Cal program of new adult day health care centers on a statewide basis or within a geographic area.

(b) The moratorium shall not apply to the following:

(1) Programs of All-Inclusive Care for the Elderly (PACE) established pursuant to Chapter 8.75 (commencing with Section 14590).

(2) An organization that currently holds a designation as a federally qualified health center as defined in Section 1396d(*l*)(2) of Title 42 of the United States Code.

(3) An organization that currently holds a designation as a federally qualified rural health clinic as defined in Section 1396d(*l*)(1) of Title 42 of the United States Code.

(4) An applicant with the physical location of the center in an unserved area, which is defined as a county having no licensed and certified adult day health care center within its geographic boundary.

(5) Commencing May 1, 2006, an applicant for certification that meets all of the following:

(A) Is serving persons discharged into community housing from a nursing facility operated by the City and County of San Francisco.

(B) Has submitted, after December 31, 2005, but prior to February 1, 2006, an application for certification that has not been denied.

(C) Meets all criteria for certification imposed under this article and is licensed as an adult day health care center pursuant to Chapter 3.3 (commencing with Section 1570) of Division 2 of the Health and Safety Code.

(6) An applicant that is requesting expansion or relocation, or both, that has been Medi-Cal certified as an adult day health care center for at least four years, is expanding or relocating within the same county, and that meets one of the following population-based criteria:

(A) The county is ranked number one or two for having the highest ratio of persons over 65 years of age receiving Medi-Cal benefits.

(B) The county is ranked number one or two for having the highest ratio of persons over 85 years of age residing in the county.

(C) The county is ranked number one or two for having the greatest ratio of persons over 65 years of age living in poverty.

(7) An applicant for certification that is currently licensed and located in a county with a population that exceeds 9,000,000 and meets the following criteria:

(A) The applicant has identified a special population of regional center consumers whose individual program plan calls for the specialized health and social services that are uniquely provided within the adult day health

care center, in order to prevent deterioration of the special population's health status.

(B) The referring regional center submits a letter to the Director of Health Care Services supporting the applicant for certification as an adult day health care provider for this special population.

(C) The applicant is currently providing services to the special population as a vendor of the referring regional center.

(D) The participants in the center are clients of the referring regional center and are not residing in a health facility licensed pursuant to subdivision (c), (d), (g), (h), or (k) of Section 1250 of the Health and Safety Code.

(c) The moratorium shall not prohibit the department from approving a change of ownership, relocation, or increase in capacity for an adult day health care center if the following conditions are met:

(1) For an application to change ownership, the adult day health care center meets all of the following conditions:

(A) Has been licensed and certified prior to the effective date of this section.

(B) Has a license in good standing.

(C) Has a record of substantial compliance with certification laws and regulations.

(D) Has met all requirements for the change application.

(2) For an application to relocate an existing facility, the relocation center must meet all of the conditions of paragraph (1) and both of the following conditions:

(A) Must be located in the same county as the existing licensed center.

(B) Must be licensed for the same capacity as the existing licensed center, unless the relocation center is located in an underserved area, which is defined as a county having 2 percent or fewer Medi-Cal beneficiaries over the age of 65 years using adult day health care services, based on 2002 calendar year Medi-Cal utilization data.

(3) For an application to increase the capacity of an existing facility, the center must meet all of the conditions of paragraph (1) and must be located in an underserved area, which is defined as a county having 2 percent or fewer Medi-Cal beneficiaries over the age of 65 years using adult day health care services, based on 2002 calendar year Medi-Cal utilization data.

(d) Following the first 180 days of the moratorium period, the department may make exceptions to the moratorium for new adult day health care centers that are located in underserved areas if the center's application was on file with the department on or before the effective date of the act adding this section. In order to apply for this exemption, an applicant or licensee must meet all of the following criteria:

(1) The applicant has control of a facility, either by ownership or lease agreement, that will house the adult day health care center, has provided to the department all necessary documents and fees, and has completed and submitted all required fingerprinting forms to the department.

(2) The physical location of the applicant's or licensee's adult day health care center is in an underserved area, which is defined as a county having 2 percent or fewer Medi-Cal beneficiaries over the age of 65 years using adult day health care services, based on 2002 calendar year Medi-Cal utilization data.

(e) During the period of the moratorium, a licensee or applicant that meets the criteria for an exemption as defined in subdivision (d) may submit a written request for an exemption to the director.

(f) If the director determines that a new adult day health care licensee or applicant meets the exemption criteria, the director may certify the licensee or applicant, once licensed, for participation in the Medi-Cal program.

(g) The director may extend this moratorium, if necessary, to coincide with the implementation date of the adult day health care waiver.

(h) The authority granted in this section shall not be interpreted as a limitation on the authority granted to the department in any other section.

SEC. 51. Section 14087.54 of the Welfare and Institutions Code is amended to read:

14087.54. (a) Any county or counties may establish a special commission in order to meet the problems of the delivery of publicly assisted medical care in the county or counties and to demonstrate ways of promoting quality care and cost efficiency.

(b) (1) A county board of supervisors may, by ordinance, establish a commission to negotiate the exclusive contract specified in Section 14087.5 and to arrange for the provision of health care services provided pursuant to this chapter. The boards of supervisors of more than one county may also establish a single commission with the authority to negotiate an exclusive contract and to arrange for the provision of services in those counties. If a board of supervisors elects to enact this ordinance, all rights, powers, duties, privileges, and immunities vested in a county by this article shall be vested in the county commission. Any reference in this article to "county" shall mean a commission established pursuant to this section.

(2) A commission operating pursuant to this section may also enter into contracts for the provision of health care services to persons who are eligible to receive medical benefits under any publicly supported program, if the commission and participating providers acting pursuant to subcontracts with the commission agree to hold harmless the beneficiaries of the publicly supported programs if the contract between

the sponsoring government agency and the commission does not ensure sufficient funding to cover program costs. The commission shall not use any payments or reserves from the Medi-Cal program for this purpose.

(3) In addition to the authority specified in paragraph (1), the board of supervisors may, by ordinance, authorize the commission established pursuant to this section to provide health care delivery systems for any or all of the following persons:

(A) Persons who are eligible to receive medical benefits under both Title 18 of the federal Social Security Act (42 U.S.C. Sec. 1395 et seq.) and Title 19 of the federal Social Security Act (42 U.S.C. Sec. 1396 et seq.).

(B) Persons who are eligible to receive medical benefits under Title 18 of the federal Social Security Act (42 U.S.C. Sec. 1395).

(C) Other individuals or groups in the service area, including, but not limited to, public agencies, private businesses, and uninsured or indigent persons. The commission shall not use any payment or reserve from the Medi-Cal program for purposes of this subparagraph.

(4) Nothing in this section shall prohibit a commission established pursuant to this section from providing services pursuant to subparagraph (C) of paragraph (3) in counties other than the commission's county if the commission is approved by the Department of Managed Health Care to provide services in those counties. The commission shall not use any payment or reserve from the Medi-Cal program for purposes of this paragraph.

(5) For purposes of providing services to persons described in subparagraph (A) or (B) of paragraph (3), if the commission seeks a contract with the federal Centers for Medicare and Medicaid Services to provide Medicare services as a Medicare Advantage program, the commission shall first obtain a license under the Knox-Keene Health Care Service Plan Act (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code).

(6) With respect to the provision of services for persons described in subparagraph (A) or (B) of paragraph (3), the commission shall conform to applicable state licensing and freedom of choice requirements as directed by the federal Centers for Medicare and Medicaid Services.

(7) Any material, provided to a person described in subparagraph (A) or (B) of paragraph (3) who is dually eligible to receive medical benefits under both the Medi-Cal program and the Medicare Program, regarding the enrollment or availability of enrollment in Medicare services established by the commission shall include notice of all of the following information in the following format:

(A) Medi-Cal eligibility will not be lost or otherwise affected if the person does not enroll in the plan for Medicare benefits.

(B) The person is not required to enroll in the Medicare plan to be eligible for Medicare benefits.

(C) The person may have other choices for Medicare coverage and for further assistance may contact the federal Centers for Medicare and Medicaid Services (CMS) at 1-800-MEDICARE or www.Medicare.gov.

(D) The notice shall be in plain language, prominently displayed, and translated into any language other than English that the commission is required to use in communicating with Medi-Cal beneficiaries.

(c) It is the intent of the Legislature that if a county forms a commission pursuant to this section, the county shall, with respect to its medical facilities and programs occupy no greater or lesser status than any other health care provider in negotiating with the commission for contracts to provide health care services.

(d) The enabling ordinance shall specify the membership of the county commission, the qualifications for individual members, the manner of appointment, selection, or removal of commissioners, and how long they shall serve, and any other matters as a board of supervisors deems necessary or convenient for the conduct of the county commission's activities. A commission so established shall be considered an entity separate from the county or counties, shall be considered a public entity for purposes of Division 3.6 (commencing with Section 810) of Title 1 of the Government Code, and shall file the statement required by Section 53051 of the Government Code. The commission shall have in addition to the rights, powers, duties, privileges, and immunities previously conferred, the power to acquire, possess, and dispose of real or personal property, as may be necessary for the performance of its functions, to employ personnel and contract for services required to meet its obligations, to sue or be sued, and to enter into agreements under Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code. Any obligations of a commission, statutory, contractual, or otherwise, shall be the obligations solely of the commission and shall not be the obligations of the county or of the state.

(e) Upon creation, a commission may borrow from the county or counties, and the county or counties may lend the commission funds, or issue revenue anticipation notes to obtain those funds necessary to commence operations.

(f) In the event a commission may no longer function for the purposes for which it was established, at the time that the commission's then existing obligations have been satisfied or the commission's assets have been exhausted, the board or boards of supervisors may by ordinance terminate the commission.

(g) Prior to the termination of a commission, the board or boards of supervisors shall notify the State Department of Health Care Services

of its intent to terminate the commission. The department shall conduct an audit of the commission's records within 30 days of the notification to determine the liabilities and assets of the commission. The department shall report its findings to the board or boards within 10 days of completion of the audit. The board or boards shall prepare a plan to liquidate or otherwise dispose of the assets of the commission and to pay the liabilities of the commission to the extent of the commission's assets, and present the plan to the department within 30 days upon receipt of these findings.

(h) Upon termination of a commission by the board or boards, the county or counties shall manage any remaining assets of the commission until superseded by a department approved plan. Any liabilities of the commission shall not become obligations of the county or counties upon either the termination of the commission or the liquidation or disposition of the commission's remaining assets.

(i) Any assets of a commission shall be disposed of pursuant to provisions contained in the contract entered into between the state and the commission pursuant to this article.

(j) Nothing in this section shall be construed to supersede Section 14093.06 or 14094.3.

SEC. 52. Section 15904 of the Welfare and Institutions Code is amended to read:

15904. (a) The State Department of Health Care Services shall issue a request for applications for funding the Health Care Coverage Initiative.

(b) The department shall allocate federal funds available to be claimed under the Health Care Coverage programs.

(c) The department shall select the Health Care Coverage programs that best meet the requirements and desired outcomes set forth in this part.

(d) The following elements shall be used in evaluating the proposals to make selections and to determine the allocation of the available funds:

(1) Enrollment processes, with an identification system to demonstrate enrollment of the uninsured into the program.

(2) Use of a medical record system, which may include electronic medical records.

(3) Designation of a medical home and assignment of eligible individuals to a primary care provider. For purposes of this paragraph, "medical home" means a single provider or facility that maintains all of an individual's medical information. The primary care provider shall be a provider from which the enrollee can access primary and preventive care.

(4) Provision of a benefit package of services, including preventive and primary care services, and care management services designed to

treat individuals with chronic health care conditions, mental illness, or who have high costs associated with their medical conditions, to improve their health and decrease future costs. Benefits may include case management services.

(5) Quality monitoring processes to assess the health care outcomes of individuals enrolled in the Health Care Coverage program.

(6) Promotion of the use of preventive services and early intervention.

(7) The provision of care to Medi-Cal beneficiaries by the applicant and the degree to which the applicant coordinates its care with services provided to Medi-Cal beneficiaries.

(8) Screening and enrollment processes for individuals who may qualify for enrollment into Medi-Cal, the Healthy Families Program, and the Access for Infants and Mothers Program prior to enrollment into the Health Care Coverage program.

(9) The ability to demonstrate how the Health Care Coverage program will promote the viability of the existing safety net health care system.

(10) Documentation to support the applicant's ability to implement the Health Care Coverage program by September 1, 2007, and to use its allocation for each project year.

(11) Demonstration of how the program will provide consumer assistance to individuals applying to, participating in, or accessing services in the program.

(e) Entities eligible to apply for the initiative funds are a county, city and county, consortium of counties serving a region consisting of more than one county, or health authority. No entity shall submit more than one proposal.

(f) The department shall rank the program applications based on the criteria in this section. The amount of federal funding available to be claimed shall be allocated based upon the ranking of the applications. The department shall allocate the available federal funding to the highest ranking applications until all of the funding is allocated. The department shall select at least five programs, and no single program shall receive an allocation greater than 30 percent of the total federal allotment. The department is not required to fund the entire amount requested in a program application.

(g) The department shall seek to balance the allocations throughout geographic areas of the state.

(h) Each county, city and county, consortium of counties, or health authority that is selected to receive funding shall provide the necessary local funds for the nonfederal share of the certified public expenditures, or intergovernmental transfers to the extent allowable under the demonstration project, required to claim the federal funds made available from the federal allotment. The certified public expenditures, or

intergovernmental transfers to the extent allowable under the demonstration project, shall meet the requirements of the Special Terms and Conditions of California's Section 1115 Medicaid demonstration project waiver number 11-W-00193/9 relating to hospital financing and health coverage expansion that became effective September 1, 2005.

(i) The federal allocation shall be available to the selected programs for the three-year period covering the Health Care Coverage program pursuant to the Special Terms and Conditions of California's Section 1115 Medicaid demonstration project waiver number 11-W-00193/9 relating to hospital financing and health coverage expansion, unless the selected programs do not incur expenditures sufficient to claim the allocation of federal funds in the particular program year. Selected programs shall expend the funds according to an expenditure schedule determined by the department.

(j) The department may reallocate the available federal funds among selected programs or other program applicants that were previously not selected for funding, if necessary to meet federal requirements regarding the timing of expenditures, notwithstanding subdivision (f). If a selected program fails to substantially comply with the requirements of this article, the department may reallocate the available federal funds from that selected program to other selected programs or other program applications that previously were not selected for funding. If a selected program is unable to meet its spending targets, determined at the end of the second quarter of each program year, the department may reallocate funds to other selected programs or other program applications that previously were not selected for funding, to ensure that all available federal funds are claimed. Selected programs receiving reallocated funds must have the ability to make the certified public expenditures necessary to claim the reallocated federal funds.

(k) Federal funds provided for the initiative shall supplement, and not supplant, any county, city and county, health authority, state, or federal funds that would otherwise be spent on health care services in the county, city and county, consortium of counties, or a health authority region. Federal funds allocated under the initiative shall reimburse the selected county, city and county, consortium of counties, or health authority for the benefits and services provided under subdivision (d) of Section 15904. Administrative costs associated with the development and management of the initiative shall not be paid from the Health Care Coverage program allocation, and any allocations for administrative funds shall be in addition to the allocations made for the initiative.

SEC. 53. Section 16953.3 of the Welfare and Institutions Code is amended to read:

16953.3. (a) Notwithstanding any other restrictions on reimbursement, a county shall adopt a fee schedule to establish a uniform, reasonable level of reimbursement from the Physician Services Account for reimbursable services.

(b) (1) Notwithstanding any other restrictions on reimbursement, the State Department of Public Health shall adopt a single fee schedule to establish a uniform, reasonable level of reimbursement for use in the physician services reimbursement programs operated by the department pursuant to contract, as provided for in subdivision (c) of Section 16952.

(2) The State Department of Public Health may develop, contract for the development of, or adopt by reference, the fee schedule required by paragraph (1).

(3) Pursuant to subdivision (d) of Section 16952, the State Department of Public Health may be reimbursed by the Physician Services Account and the Hospital Services Account based on actual administrative costs to develop or adopt the fee schedule required by paragraph (1), not to exceed 10 percent of the amount of the account.

(4) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement this subdivision by means of provider bulletins, or similar instruction, without taking formal regulatory action.

SEC. 54. Section 2 of Chapter 610 of the Statutes of 2006 is amended to read:

Sec. 2. (a) The Legislature finds and declares both of the following:

(1) Given the rich heritage and traditions of Asian-Americans, a process must be considered to allow for foods tied to traditional Asian ceremonies to be sold and consumed according to those traditions.

(2) Requiring food retailers to follow health and sanitation standards is necessary to preserve public health.

(b) (1) The State Department of Public Health shall conduct a study of the sale and consumption of Banh Chung, Banh Tet, and moon cakes, as a means of finding methods that may permit the sale and consumption of these foods at traditional Asian ceremonies and cultural events while providing adequate health and sanitation standards that protect public health.

(2) The department shall submit this study to the Legislature by January 1, 2008.

SEC. 55. Any section of any act, other than the act for the maintenance of the codes, enacted by the Legislature during the 2007 calendar year that takes effect on or before January 1, 2008, and that amends, amends and renumbers, adds, repeals and adds, or repeals a section that is amended by this act, shall prevail over the amendment of

that section by this act whether that act is enacted prior to, or subsequent to, the enactment of this act.

CHAPTER 484

An act to add and repeal Section 66537 of the Government Code, relating to Vasco Road.

[Approved by Governor October 11, 2007. Filed with Secretary of State October 11, 2007.]

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares both of the following:

(a) Vasco Road, linking the residential communities of Brentwood, Oakley, and the adjacent unincorporated communities in Contra Costa County with the Alameda County employment centers in the Cities of Livermore, Pleasanton, and Dublin, has emerged as an important regional travel corridor.

(b) Vasco Road is a two-lane county road that has poor geometry and sight distance, and is currently used by 22,000 vehicles per day. Local studies forecast that travel will grow substantially on that road during the next few years.

SEC. 2. Section 66537 is added to the Government Code, to read:

66537. (a) On or before September 30, 2008, the Metropolitan Transportation Commission, in cooperation with the Contra Costa Transportation Authority, shall conduct a study and submit a report to the Legislature that includes recommendations to expedite approval and facilitate funding of the construction and maintenance of a median barrier on Vasco Road between the Alameda County border and the intersection of Vasco Road and Camino Diablo in Contra Costa County.

(b) The commission may request funding from the Contra Costa Transportation Authority to cover the costs of the study specified in subdivision (a). To the extent that such funding is not provided, the commission shall use its existing resources to complete the study.

(c) The commission shall establish a policy committee that includes representatives from the Contra Costa Transportation Authority and the commission.

(d) The commission shall establish a technical advisory committee to advise the policy committee specified in subdivision (c). The technical advisory committee shall include representatives from the county

government of Contra Costa County, the city governments of the Cities of Brentwood and Oakley, and other entities specified by the commission.

(e) This section shall remain in effect only until January 1, 2010, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2010, deletes or extends that date.

SEC. 3. No reimbursement shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code for costs mandated by the state pursuant to this act. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Part 7 (commencing with Section 17500) and any other provisions of law.

CHAPTER 485

An act to amend Section 354.5 of the Elections Code, relating to elections.

[Approved by Governor October 11, 2007. Filed with Secretary of State October 11, 2007.]

The people of the State of California do enact as follows:

SECTION 1. This act shall be known as the Warren Mattingly Signature Stamp Act.

SEC. 2. Section 354.5 of the Elections Code is amended to read:

354.5. (a) "Signature" includes either of the following:

(1) A person's mark if the name of the person affixing the mark is written near the mark by a witness over the age of 18 years designated by the person and the designee subscribes his or her own name as a witness thereto. For purposes of this paragraph, a signature stamp may be used as a mark, provided that the authorized user complies with the provisions of this paragraph.

(2) An impression made by the use of a signature stamp pursuant to the requirements specified in subdivision (c).

(b) A mark attested as provided in paragraph (1) of subdivision (a), or an impression made by a signature stamp as provided in paragraph (2) of subdivision (a), may serve as a signature for any purpose specified in this code, including a sworn statement.

(c) An authorized user of a signature stamp may use it to affix a signature to a document or writing any time that a signature is required by this code, provided that all of the following conditions, as applicable, are met:

(1) A signature stamp used to obtain a ballot or absentee ballot in any local, state, or federal election shall be used only by the authorized user of that signature stamp.

(2) A signature stamp shall be affixed by the authorized user in the presence of the Secretary of State, his or her designee, the local elections official, or his or her designee, to obtain a ballot, in any local, state, or federal election unless the authorized user of the signature stamp votes by absentee ballot. If the owner of a signature stamp votes by absentee ballot, he or she shall affix the signature stamp on the absentee ballot in accordance with the requirements of Section 3019.

(d) A signature affixed with a signature stamp by an authorized user in accordance with the requirements of this section shall be treated in the same manner as a signature made in writing.

(e) A registered voter or any person who is eligible to vote, who qualifies as an authorized user pursuant to paragraph (1) of subdivision (g), may use a signature stamp only after he or she first submits his or her affidavit of registration or a new affidavit of registration, whichever is applicable, in the presence of a county elections official, using the signature stamp to sign the affidavit.

(f) The Secretary of State shall report to the Legislature not later than January 1, 2009, regarding the use of signature stamps during the 2008 elections.

(g) The following definitions apply for purposes of this section:

(1) "Authorized user" means either of the following:

(A) A person with a disability who, by reason of that disability, is unable to write and who owns a signature stamp.

(B) A person using the signature stamp on behalf of the owner of the stamp with the owner's express consent and in the presence of the owner.

(2) "Disability" means a medical condition, mental disability, or physical disability, as those terms are defined in subdivisions (h), (i), and (k) of Section 12926 of the Government Code.

(3) "Signature stamp" means a stamp that contains the impression of any of the following:

(A) The actual signature of a person with a disability.

(B) A mark or symbol that is adopted by the person with the disability.

(C) A signature of the name of a person with a disability that is made by another person and is adopted by the person with the disability.

CHAPTER 486

An act to amend Section 18796 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor October 11, 2007. Filed with
Secretary of State October 11, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 18796 of the Revenue and Taxation Code is amended to read:

18796. (a) This article shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2013, deletes that date.

(b) (1) By September 1, 2006, and by September 1 of each subsequent calendar year that the California Breast Cancer Research Fund appears on a tax return, the Franchise Tax Board shall do all of the following:

(A) Determine the minimum contribution amount required to be received during the next calendar year for the fund to appear on the tax return for the taxable year that includes that next calendar year.

(B) Provide written notification to the University of California of the amount determined in subparagraph (A).

(C) Determine whether the amount of contributions estimated to be received during the calendar year will equal or exceed the minimum contribution amount determined by the Franchise Tax Board for the calendar year pursuant to subparagraph (A). The Franchise Tax Board shall estimate the amount of the contributions to be received by using the actual amounts received and an estimate of the contributions that will be received by the end of that calendar year.

(2) If the Franchise Tax Board determines that the amount of contributions estimated to be received during a calendar year will not at least equal the minimum contribution amount for the calendar year, this article is repealed with respect to taxable years beginning on or after January 1 of that calendar year.

(3) For purposes of this section, the minimum contribution amount for a calendar year means two hundred fifty thousand dollars ($250,000) for the 1997 calendar year or the minimum contribution amount adjusted pursuant to subdivision (c).

(c) For each calendar year, beginning with calendar year 1998, the Franchise Tax Board shall adjust, on or before September 1 of that calendar year, the minimum contribution amount specified in subdivision (b) as follows:

(1) The minimum contribution amount for the calendar year shall be an amount equal to the product of the minimum contribution amount for the prior calendar year multiplied by the inflation factor adjustment as specified in paragraph (2) of subdivision (h) of Section 17041, rounded off to the nearest dollar.

(2) The inflation factor adjustment used for the calendar year shall be based on the figures for the percentage change in the California Consumer Price Index that are received on or before August 1 of the calendar year pursuant to paragraph (1) of subdivision (h) of Section 17041.

(d) Notwithstanding the repeal of this article, any contribution amounts designated pursuant to this article prior to its repeal shall continue to be transferred and disbursed in accordance with this article as in effect immediately prior to that repeal.

CHAPTER 487

An act to add and repeal Section 13001 of the Elections Code, relating to elections, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 11, 2007. Filed with Secretary of State October 11, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 13001 is added to the Elections Code, to read:

13001. (a) Except as provided in subdivision (b), effective January 1, 2007, all expenses authorized and necessarily incurred in the preparation for, and conduct of, elections as provided in this code shall be paid from the county treasuries, except that when an election is called by the governing body of a city, the expenses shall be paid from the treasury of the city. All payments shall be made in the same manner as other county or city expenditures are made. The elections official, in providing the materials required by this division, need not utilize the services of the county or city purchasing agent.

(b) All expenses authorized and necessarily incurred on or after January 1, 2007, in the preparation for and conduct of elections proclaimed by the Governor to fill a vacancy in the office of State Senator or Assembly Member, or to fill a vacancy in the office of United States Senator or Representative in the Congress, shall be paid by the state. If an election proclaimed by the Governor to fill a vacancy in an office specified by this subdivision is consolidated with a local election, only those additional expenses directly related to the election proclaimed by the Governor shall be paid by the state.

(c) This section shall remain in effect only until January 1, 2008, and as of that date is repealed, unless a later enacted statute that is enacted on or before January 1, 2008, deletes or extends that date.

SEC. 2. Section 13001 is added to the Elections Code, to read:

13001. (a) All expenses authorized and necessarily incurred in the preparation for and conduct of elections as provided in this code shall be paid from the county treasuries, except that when an election is called by the governing body of a city the expenses shall be paid from the treasury of the city. All payments shall be made in the same manner as other county or city expenditures are made. The elections official, in providing the materials required by this division, need not utilize the services of the county or city purchasing agent.

(b) This section shall become operative on January 1, 2008.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to relieve counties of responsibility for expenses incurred in the year 2007 for the preparation for, and conduct of, elections proclaimed by the Governor for specified purposes, it is necessary that this bill go into immediate effect.

CHAPTER 488

An act to amend Section 3680.5 of the Family Code, and to amend Section 11477 of the Welfare and Institutions Code, relating to CalWORKs.

[Approved by Governor October 11, 2007. Filed with Secretary of State October 11, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 3680.5 of the Family Code is amended to read:

3680.5. (a) The local child support agency shall monitor child support cases and seek modifications, when needed.

(b) At least once every three years, the local child support agency shall review, and, if appropriate, seek modification of, each child support case for which assistance is being provided under the CalWORKs program, pursuant to Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code.

SEC. 2. Section 11477 of the Welfare and Institutions Code is amended to read:

11477. As a condition of eligibility for aid paid under this chapter, each applicant or recipient shall do all of the following:

(a) (1) Do either of the following:

(i) For applications received before October 1, 2009, assign to the county any rights to support from any other person the applicant or recipient may have on his or her own behalf or on behalf of any other family member for whom the applicant or recipient is applying for or receiving aid, not exceeding the total amount of cash assistance provided to the family under this chapter. Receipt of public assistance under this chapter shall operate as an assignment by operation of law. An assignment of support rights to the county shall also constitute an assignment to the state. If support rights are assigned pursuant to this subdivision, the assignee may become an assignee of record by the local child support agency or other public official filing with the court clerk an affidavit showing that an assignment has been made or that there has been an assignment by operation of law. This procedure does not limit any other means by which the assignee may become an assignee of record.

(ii) For applications received on or after October 1, 2009, assign to the county any rights to support from any other person the applicant or recipient may have on his or her own behalf, or on behalf of any other family member for whom the applicant or recipient is applying for or receiving aid. The assignment shall apply only to support that accrues during the period of time that the applicant is receiving assistance under this chapter, and shall not exceed the total amount of cash assistance provided to the family under this chapter. Receipt of public assistance under this chapter shall operate as an assignment by operation of law. An assignment of support rights to the county shall also constitute an assignment to the state. If support rights are assigned pursuant to this subdivision, the assignee may become an assignee of record by the local child support agency or other public official filing with the court clerk an affidavit showing that an assignment has been made or that there has been an assignment by operation of law. This procedure does not limit any other means by which the assignee may become an assignee of record.

(2) Support that has been assigned pursuant to paragraph (1) and that accrues while the family is receiving aid under this chapter shall be permanently assigned until the entire amount of aid paid has been reimbursed.

(3) If the federal government does not permit states to adopt the same order of distribution for preassistance and postassistance child support arrears that are assigned on or after October 1, 1998, support arrears that accrue before the family receives aid under this chapter that are assigned pursuant to this subdivision shall be assigned as follows:

(A) Child support assigned prior to January 1, 1998, shall be permanently assigned until aid is no longer received and the entire amount of aid has been reimbursed.

(B) Child support assigned on or after January 1, 1998, but prior to October 1, 2000, shall be temporarily assigned until aid under this chapter is no longer received and the entire amount of aid paid has been reimbursed or until October 1, 2000, whichever comes first.

(C) On or after October 1, 2000, support assigned pursuant to this subdivision that was not otherwise permanently assigned shall be temporarily assigned to the county until aid is no longer received.

(D) On or after October 1, 2000, support that was temporarily assigned pursuant to this subdivision shall, when a payment is received from the federal tax intercept program, be temporarily assigned until the entire amount of aid paid has been reimbursed.

(4) If the federal government permits states to adopt the same order of distribution for preassistance and postassistance child support arrears, child support arrears shall be assigned, as follows:

(A) Child support assigned pursuant to this subdivision prior to October 1, 1998, shall be assigned until aid under this chapter is no longer received and the entire amount has been reimbursed.

(B) On or after October 1, 1998, child support assigned pursuant to this subdivision that accrued before the family receives aid under this chapter and that was not otherwise permanently assigned, shall be temporarily assigned until aid under this chapter is no longer received.

(C) On or after October 1, 1998, support that was temporarily assigned pursuant to this subdivision shall, when a payment is received from the federal tax intercept program, be temporarily assigned until the entire amount of aid paid has been reimbursed.

(b) (1) Cooperate with the county welfare department and local child support agency in establishing the paternity of a child of the applicant or recipient born out of wedlock with respect to whom aid is claimed, and in establishing, modifying, or enforcing a support order with respect to a child of the individual for whom aid is requested or obtained, unless the applicant or recipient qualifies for a good cause exception as provided in Section 11477.04. The granting of aid shall not be delayed or denied if the applicant is otherwise eligible, if the applicant completes the necessary forms and agrees to cooperate with the local child support agency in securing support and determining paternity, where applicable. The local child support agency shall have staff available, in person or by telephone, at all county welfare offices and shall conduct an interview with each applicant to obtain information necessary to establish paternity and establish, modify, or enforce a support order at the time of the initial interview with the welfare office. The local child support agency shall

make the determination of cooperation. If the applicant or recipient attests under penalty of perjury that he or she cannot provide the information required by this subdivision, the local child support agency shall make a finding regarding whether the individual could reasonably be expected to provide the information, before the local child support agency determines whether the individual is cooperating. In making the finding, the local child support agency shall consider all of the following:

(A) The age of the child for whom support is sought.

(B) The circumstances surrounding the conception of the child.

(C) The age or mental capacity of the parent or caretaker of the child for whom aid is being sought.

(D) The time that has elapsed since the parent or caretaker last had contact with the alleged father or obligor.

(2) Cooperation includes the following:

(A) Providing the name of the alleged parent or obligor and other information about that person if known to the applicant or recipient, such as address, social security number, telephone number, place of employment or school, and the names and addresses of relatives or associates.

(B) Appearing at interviews, hearings, and legal proceedings provided the applicant or recipient is provided with reasonable advance notice of the interview, hearing, or legal proceeding and does not have good cause not to appear.

(C) If paternity is at issue, submitting to genetic tests, including genetic testing of the child, if necessary.

(D) Providing any additional information known to or reasonably obtainable by the applicant or recipient necessary to establish paternity or to establish, modify, or enforce a child support order.

(3) A recipient or applicant shall not be required to sign a voluntary declaration of paternity, as set forth in Chapter 3 (commencing with Section 7570) of Part 2 of Division 12 of the Family Code, as a condition of cooperation.

SEC. 3. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

CHAPTER 489

An act to amend and supplement the Budget Act of 2007 (Chapters 171 and 172 of the Statutes of 2007) by amending Items 3790-001-0001,

3790-497, 4260-111-0001, 4260-111-0236, 6110-101-0349, 7100-001-0514, and 7100-001-0870 of Section 2.00 of that act, relating to the state budget, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 11, 2007. Filed with Secretary of State October 11, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Item 3790-001-0001 of Section 2.00 of the Budget Act of 2007 is amended to read:

3790-001-0001—For support of Department of Parks and Recreation		145,359,000
Schedule:		
(1) For support of the Department of Parks and Recreation	383,495,000	
(2) Reimbursements	−32,199,000	
(3) Less funding provided by capital outlay	−4,000,000	
(4) Amount payable from the Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Bond Fund (Item 3790-001-0005)	−6,639,000	
(5) Amount payable from the California Environmental License Plate Fund (Item 3790-001-0140)	−3,264,000	
(6) Amount payable from the Public Resources Account, Cigarette and Tobacco Products Surtax Fund (Item 3790-001-0235)	−11,258,000	
(7) Amount payable from the Off-Highway Vehicle Trust Fund (Item 3790-001-0263)	−42,336,000	
(8) Amount payable from the State Parks and Recreation Fund (Item 3790-001-0392)	−121,173,000	
(9) Amount payable from the Winter Recreation Fund (Item 3790-001-0449)	−390,000	

(10) Amount payable from the Harbors and Watercraft Revolving Fund (Item 3790-001-0516)..... −814,000
(11) Amount payable from the Federal Trust Fund (Item 3790-001-0890)..... −6,341,000
(12) Amount payable from the California Main Street Program Fund (Item 3790-001-3077)..... −175,000
(13) Amount payable from the California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Fund (Item 3790-001-6029)..... −4,433,000
(14) Amount payable from the Water Security, Clean Drinking Water, Coastal and Beach Protection Fund of 2002 (Item 3790-001-6031)..... −491,000
(15) Amount payable from Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Fund of 2006 (Item 3790-001-6051)..... −4,623,000

Provisions:

1. Of the funds appropriated by this act from the General Fund and special funds, other than the Off-Highway Vehicle Trust Fund and bond funds, to the Department of Parks and Recreation for local assistance grants to local agencies, the department may allocate an amount not to exceed 3.7 percent of each project's allocation, except to the extent otherwise restricted by law, to allow the department to administer its grants. Those funds shall be available for encumbrance or expenditure until June 30, 2013.
2. It is the intent of the Legislature that salaries, wages, operating expenses, and positions associated with implementing specific Department of Parks and Recreation capital outlay projects continue to be funded through capital outlay appropriations, and that these funds should also be reflected in the department's state operations budget in the Governor's Budget as a special item of expense reflecting the funding provided from the capital outlay appropriations.
3. Notwithstanding any other provision of law, the Director of Finance may authorize a loan from the General

Fund, in an amount not to exceed 35 percent of reimbursements appropriated in this item to the Department of Parks and Recreation, provided that:

(a) The loan is to meet cash needs resulting from the delay in receipt of reimbursements for services provided.

(b) The loan is for a short term and shall be repaid by September 30, 2008.

(c) Interest charges may be waived pursuant to subdivision (e) of Section 16314 of the Government Code.

(d) The Director of Finance may not approve the loan unless the approval is made in writing and filed with the Chairperson of the Joint Legislative Budget Committee and the chairpersons of the committees in each house of the Legislature that consider appropriations not later than 30 days prior to the effective date of the approval, or not sooner than whatever lesser time that the chairperson of the joint committee or his or her designee may determine.

4. The augmentation of $1,711,000 in Schedule (7) is to be used to fund restoration activities within state parks in which off-highway vehicle activity is or has been permitted, including areas where off-highway vehicle recreation has been determined to not be appropriate.

5. Notwithstanding Section 4.11 or any other provision of law, up to 61 positions initially authorized in accordance with Schedule (15) shall not be abolished pursuant to Section 12439 of the Government Code prior to June 30, 2015.

6. Schedule (1) includes $4,104,000 for remediation and treatment activities at Empire Mine State Historic Park. Notwithstanding any other provision of law, these funds shall be available for expenditure upon the approval of the Director of Finance, after the submission by the Department of Parks and Recreation of detailed information on the activities to be funded and their cost.

7. The Department of Parks and Recreation shall have a celebration at the Allensworth State Park on the one hundredth anniversary of the founding of the town of

Allensworth, and this celebration shall be done within the department's existing resources.

8. It is the intent of the Legislature that the Department of Parks and Recreation shall prioritize funds appropriated to the department from the Harbors and Watercraft Revolving Fund and the Motor Vehicle Fuel Account, Transportation Tax Fund, for boating-related activities that include, but are not limited to, major and minor capital outlay projects, boating trails, boating trail grants, boating trails access facilities, beach erosion grants, and state park boating facilities operations and maintenance costs.

SEC. 2. Item 3790-497 of Section 2.00 of the Budget Act of 2007 is amended to read:

3790-497—Reversion, Department of Parks and Recreation. As of June 30, 2007, the balances provided in the following citations shall revert to the fund from which the appropriations were made:

0001—General Fund

(1) Item 3790-001-0001, Budget Act of 2006 (Chs. 47 and 48, Stats. 2006)
  (1) For support of the Department of Parks and Recreation..... 175,000,000

0005—Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Bond Fund

(1) Item 3790-101-0005, Budget Act of 2001 (Ch. 106, Stats. 2001)
  (1) 80.25-Recreational Grants
    (a) Local agencies operating park units..... 835,000

(2) Item 3790-001-0005, Budget Act of 2005 (Chs. 38 and 39, Stats. 2005)..... 107,000

6029—California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Fund

(1) Item 3790-001-6029, Budget Act of 2005 (Chs. 38 and 39, Stats. 2005), as reappropriated by Item 3790-490, Budget Act of 2006 (Chs. 47 and 48, Stats. 2006)..... 3,000,000

SEC. 3. Item 4260-111-0001 of Section 2.00 of the Budget Act of 2007 is amended to read:

4260-111-0001—For local assistance, Department of Health Care Services..... 162,616,000

Schedule:

(1) 20.10-Medical Care Services..... 5,119,000
(2) 20.25-Children's Medical Services..... 266,860,000
(3) 20.35-Primary and Rural Health..... 41,289,000
(4) Reimbursements..... −14,825,000
(5) Amount payable from the Childhood Lead Poisoning Prevention Fund (Item 4260-111-0080)..... −24,000
(6) Amount payable from the Unallocated Account, Cigarette and Tobacco Products Surtax Fund (Item 4260-111-0236)..... −15,148,000
(7) Amount payable from the Federal Trust Fund (Item 4260-111-0890)..... −120,655,000

Provisions:

1. Program 20.25-Children's Medical Services: Counties may retain 50 percent of total enrollment and assessment fees that are collected by the counties for the California Children's Services Program. Fifty percent of the enrollment and assessment fee for each county shall be offset from the state's match for that county.
2. Notwithstanding any other provision of law, the Department of Finance may authorize transfer of expenditure authority between this item and Items 4260-101-0001, 4260-102-0001, and 4260-113-0001 in order to effectively administer the programs funded in these items. The Department of Finance shall notify the Legislature within 10 days of authorizing such transfer unless prior notification of the transfer has been included in the Medi-Cal estimates submitted pursuant to Section 14100.5 of the Welfare and Institutions Code.

SEC. 4. Item 4260-111-0236 of Section 2.00 of the Budget Act of 2007 is amended to read:

4260-111-0236—For local assistance, Department of Health Care Services, for payment to Item 4260-111-0001, payable from the Unallocated Account, Cigarette and Tobacco Products Surtax Fund..... 15,148,000

SEC. 5. Item 6110-101-0349 of Section 2.00 of the Budget Act of 2007 is amended to read:

6110-101-0349—For local assistance, Department of Education, Program 20.90-Instructional Support, for allocation to the Fiscal Crisis and Management Assistance Team for the purpose of administering the California School Information Services (CSIS) Program, payable from the Educational Telecommunication Fund..... 3,235,000

Provisions:

1. Notwithstanding Section 10554 of the Education Code, the Controller shall transfer from the General Fund the actual amount certified by the Superintendent of Public Instruction as reductions made to apportionments in the 2006–07 fiscal year for repayments of prior year excess apportionments identified pursuant to audit or audit settlements identified as a result of audit investigations, or inquiries.
2. Of the funds appropriated in this item, $828,000 is to be provided to non-CSIS participating school districts for support of maintenance of individual student identifiers.
3. Of the funds appropriated in this item, $2,010,000 is to be provided to the Fiscal Crisis and Management Assistance Team on a one-time basis for the purpose of administering the CSIS Program. These funds shall be used to: (a) replace outdated server capacity, including a three-year service agreement, (b) purchase automated testing tools needed to address system stability and software testing, and (c) address technical assistance workload.

SEC. 6. Item 7100-001-0514 of Section 2.00 of the Budget Act of 2007 is amended to read:

7100-001-0514—For support of Employment Development Department, for payment to Item 7100-001-0870, payable from the Employment Training Fund..... 61,600,000

Provisions:

1. Upon order of the Director of Finance, funds disencumbered from Employment Training Fund training contracts during the 2007–08 fiscal year that have not reverted as of July 1, 2007, may be appropriated in augmentation of this item.
2. Notwithstanding subparagraph (B) of paragraph (2) of subdivision (a) of Section 10206 of the Unemployment Insurance Code, the Employment Training Panel's administrative costs may exceed 15 percent of the amount appropriated in this item.

SEC. 7. Item 7100-001-0870 of Section 2.00 of the Budget Act of 2007 is amended to read:

7100-001-0870—For support of Employment Development Department, payable from the Unemployment Administration Fund-Federal		523,595,000
Schedule:		
(1) 10-Employment and Employment Related Services	168,065,000	
(2) 21-Tax Collections and Benefit Payments	626,785,000	
(3) 22-California Unemployment Insurance Appeals Board	74,196,000	
(4) 30.01-General Administration	56,859,000	
(5) 30.02-Distributed General Administration	–51,194,000	
(6) 50-Employment Training Panel	56,345,000	
(7) Reimbursements	–22,916,000	
(8) Amount payable from the General Fund (Item 7100-001-0001)	–25,176,000	
(9) Amount payable from the Employment Development Department Benefit Audit Fund (Item 7100-001-0184)	–14,621,000	
(10) Amount payable from the Employment Development Contingent Fund (Item 7100-001-0185)	–67,435,000	
(11) Amount payable from the Employment Training Fund (Item 7100-001-0514)	–61,600,000	

(12) Amount payable from the Unemployment Compensation Disability Fund (Item 7100-001-0588)..... −214,768,000
(13) Amount payable from the School Employees Fund (Item 7100-001-0908).... −945,000

Provisions:

1. Funds appropriated in this item are in lieu of the amounts that otherwise would have been appropriated pursuant to Section 1555 of the Unemployment Insurance Code.
2. Provision 1 of Item 7100-001-0588 also applies to funds appropriated in this item for the Unemployment Insurance Program.
3. No later than September 13, 2007, the Secretary of Labor and Workforce Development shall report to the Director of Finance and the Joint Legislative Budget Committee on the progress of the Underground Economy Enforcement Program and shall provide justification for its continuance.

SEC. 8. (a) The sum of five million dollars ($5,000,000) is hereby appropriated from the General Fund to the Superintendent of Public Instruction in augmentation of the amount appropriated in Schedule (1) of Item 6110-196-0001 of Section 2.00 of the Budget Act of 2007 (Chapter 171 of the Statutes of 2007). The funds appropriated in this section are available for the provision of wraparound care to children enrolled in state preschool programs. The Superintendent of Public Instruction shall assign priority for funds appropriated in this section for the provision of wraparound care to children enrolled in prekindergarten and family literacy programs authorized by Section 8238.4 of the Education Code.

(b) For purposes of this act, "wraparound care" means child care services provided to children enrolled in state preschool programs for the portion of each day not otherwise covered by services provided as part of those programs.

SEC. 9. (a) The sum of thirty-three million one hundred thousand dollars ($33,100,000) is hereby appropriated from the General Fund to the Board of Governors of the California Community Colleges, in augmentation of Schedule (2) (10.10.020 Basic Skills and Apprenticeship) of Item 6870-101-0001 of the Budget Act of 2007 (Chapters 171 and 172 of the Statutes of 2007).

(b) These funds shall be available for the following purposes:

(1) The sum of one million six hundred thousand dollars ($1,600,000) for faculty and staff development to improve curriculum, instruction, student services, and program practices in the areas of basic skills and English as a Second Language (ESL) programs. The Office of the Chancellor shall select a district, utilizing a competitive process, to carry out these faculty and staff development activities. All colleges receiving funds pursuant to paragraph (2) shall be provided with the opportunity to participate in the faculty and staff development programs specified in this paragraph. The Chancellor shall report on the use of these funds by the selected district to the Legislative Analyst and the Department of Finance not later than September 1, 2008.

(2) The sum of thirty-one million five hundred thousand dollars ($31,500,000) for allocation by the Chancellor to community college districts for improving outcomes of students who enter college needing at least one course in ESL or basic skills, with particular emphasis on students transitioning from high school.

(A) Funds allocated pursuant to this paragraph shall be expended for program and curriculum planning and development, student assessment, advisement and counseling services, supplemental instruction and tutoring, articulation, instructional materials and equipment, and any other purpose directly related to the enhancement of basic skills, ESL instruction, and related student programs. The allocated funds shall supplement, and not supplant, current expenditures by districts for matriculation and assessment services, basic skills, ESL instruction, and related student programs.

(B) To be eligible to receive funds pursuant to this paragraph, a district must submit to the Office of the Chancellor an application containing a certification that the college will, within the fiscal year, (i) complete an assessment of its programs and activities serving basic skills and ESL students utilizing the assessment tool developed pursuant to paragraph (1) of Item 6870-493 of Section 2.00 of the Budget Act of 2006 (Chapters 47 and 48 of the Statutes of 2006), and (ii) submit to the Office of the Chancellor an action and expenditure plan for funds received under this paragraph.

(C) The Office of the Chancellor shall work jointly with the Department of Finance and the Legislative Analyst to develop annual accountability measures for this program. It is the intent of the Legislature that annual performance accountability measures for this program utilize, to the extent possible, data available as part of the accountability system developed pursuant to Section 84754.5 of the Education Code. By November 1, 2008, the Chancellor shall submit a report to the Governor and Legislature on the annual accountability measures developed pursuant to this process.

(D) The Chancellor shall distribute funds to districts on the basis of the following two factors, with equal weight given to each: (i) the number of full-time equivalent students generated in basic skills and ESL courses in the preceding fiscal year; and (ii) the number of full-time equivalent students generated in basic skills and ESL courses by students transitioning from high schools in the preceding fiscal year. For purposes of distributing these funds, the Chancellor may establish a minimum allocation of one hundred thousand dollars ($100,000) per college.

SEC. 10. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure that state programs are properly funded for the 2007–08 fiscal year, it is necessary that this act take effect immediately.

CHAPTER 490

An act to add Section 97.78 to the Revenue and Taxation Code, relating to local government finance, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 11, 2007. Filed with Secretary of State October 11, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 97.78 is added to the Revenue and Taxation Code, to read:

97.78. (a) (1) Notwithstanding any other law, for the 2007–08 fiscal year, the total amount of ad valorem property tax revenue deemed allocated by the Fresno County Auditor to the Educational Revenue Augmentation Fund for the Fresno Metropolitan Flood Control District shall be decreased, for the prior fiscal year, by six hundred thirty-three thousand dollars ($633,000).

(2) Any reduction in the amount of ad valorem property tax revenues deposited in the county's Educational Revenue Augmentation Fund resulting from the implementation of paragraph (1) shall be applied exclusively to reduce the amounts that are allocated from that fund to school districts and county offices of education, and shall not be applied to reduce the amounts of ad valorem property tax revenues that are allocated from that fund to community college districts.

(b) For the 2008–09 fiscal year and each fiscal year thereafter, the amounts determined under subdivision (a) of Section 96.1, or any successor to that provision, shall reflect, for a preceding fiscal year, the allocation adjustments required by this section.

(c) In making the determinations required by subparagraph (A) of paragraph (3) of subdivision (c) of Section 97.2 for the 2007–08 fiscal year and for each fiscal year thereafter, the Director of Finance shall ensure that the operation of this section does not result in a net increase in the total amount of the reduction required by Section 97.2 for any special district.

SEC. 2. The Legislature finds and declares that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique fiscal pressures being encountered by the Fresno Metropolitan Flood Control District in providing vital flood protection services.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide immediate financial relief to the Fresno Metropolitan Flood Control District so that the district may provide vital flood protection services that protect the public peace, health, and safety, it is necessary that this act take effect immediately.

CHAPTER 491

An act to add Sections 18547 and 18548 to the Elections Code, relating to elections.

[Approved by Governor October 11, 2007. Filed with Secretary of State October 11, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 18547 is added to the Elections Code, to read:

18547. (a) In addition to any other fine or penalty imposed by this article, the court may order any person convicted of violating this article to pay a restitution fine, the amount of which shall be determined by the court and be commensurate with the seriousness of the offense.

(b) The moneys derived from the fine assessed pursuant to subdivision (a) shall be deposited in the Voter Intimidation Restitution Fund, created in Section 18548.

SEC. 2. Section 18548 is added to the Elections Code, to read:

18548. The Voter Intimidation Restitution Fund is hereby established in the State Treasury. Upon appropriation by the Legislature, moneys in the fund shall be allocated to the Secretary of State to be used in voter education campaigns addressing the specific crime committed by anyone convicted of violating this article. The funds shall also be used for the administrative costs associated with distribution of the fund.

CHAPTER 492

An act to amend Section 8610.5 of the Government Code, and to add Section 758 to the Public Utilities Code, relating to emergency services.

[Approved by Governor October 11, 2007. Filed with Secretary of State October 11, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 8610.5 of the Government Code is amended to read:

8610.5. (a) For purposes of this section, the following definitions shall apply:

(1) "Department" means the State Department of Public Health.

(2) "Office" means the Office of Emergency Services.

(3) "Utility" means an "electrical corporation" as defined in Section 218 of the Public Utilities Code, and "utilities" means more than one electrical corporation.

(b) (1) State and local costs to carry out activities pursuant to this section and Chapter 4 (commencing with Section 114650) of Part 9 of Division 104 of the Health and Safety Code that are not reimbursed by federal funds shall be borne by utilities operating nuclear powerplants with a generating capacity of 50 megawatts or more.

(2) The Public Utilities Commission shall develop and transmit to the office an equitable method of assessing the utilities operating the

powerplants for their reasonable pro rata share of state agency costs specified in paragraph (1).

(3) Each local government involved shall submit a statement of its costs specified in paragraph (1), as required, to the office.

(4) Upon each utility's notification by the office, from time to time, of the amount of its share of the actual or anticipated state and local agency costs, the utility shall pay this amount to the Controller for deposit in the Nuclear Planning Assessment Special Account, which is continued in existence, for allocation by the Controller, upon appropriation by the Legislature, to carry out activities pursuant to this section and Chapter 4 (commencing with Section 114650) of Part 9 of Division 104 of the Health and Safety Code. The Controller shall pay from this account the state and local costs relative to carrying out this section and Chapter 4 (commencing with Section 114650) of Part 9 of Division 104 of the Health and Safety Code, upon certification thereof by the office.

(5) Upon appropriation by the Legislature, the Controller may disburse up to 80 percent of a fiscal year allocation from the Nuclear Planning Assessment Special Account, in advance, for anticipated local expenses, as certified by the office pursuant to paragraph (4). The office shall review program expenditures related to the balance of funds in the account and the Controller shall pay the portion, or the entire balance, of the account, based upon those approved expenditures.

(c) (1) The total annual disbursement of state costs from the utilities operating the nuclear powerplants within the state for activities pursuant to this section and Chapter 4 (commencing with Section 114650) of Part 9 of Division 104 of the Health and Safety Code, shall not exceed the lesser of the actual costs or the maximum funding levels established in this section, subject to subdivisions (e) and (f), to be shared equally among the utilities.

(2) Of the annual amount of two million forty-seven thousand dollars ($2,047,000) for the 2009–10 fiscal year, the sum of one million ninety-four thousand dollars ($1,094,000) shall be for support of the office for activities pursuant to this section and Chapter 4 (commencing with Section 114650) of Part 9 of Division 104 of the Health and Safety Code, and the sum of nine hundred fifty-three thousand dollars ($953,000) shall be for support of the department for activities pursuant to this section and Chapter 4 (commencing with Section 114650) of Part 9 of Division 104 of the Health and Safety Code.

(d) (1) The total annual disbursement for each fiscal year, commencing July 1, 2009, of local costs from the utilities shall not exceed the lesser of the actual costs or the maximum funding levels established in this section, in support of activities pursuant to this section and Chapter 4 (commencing with Section 114650) of Part 9 of Division 104 of the

Health and Safety Code. The maximum annual amount available for disbursement for local costs, subject to subdivisions (e) and (f), shall, for the fiscal year beginning July 1, 2009, be one million seven hundred thirty-two thousand dollars ($1,732,000) for the Diablo Canyon site and one million six hundred thousand dollars ($1,600,000) for the San Onofre site.

(2) The amounts paid by the utilities under this section shall be allowed for ratemaking purposes by the Public Utilities Commission.

(e) (1) Except as provided in paragraph (2), the amounts available for disbursement for state and local costs as specified in this section shall be adjusted and compounded each fiscal year by the percentage increase in the California Consumer Price Index of the previous calendar year.

(2) For the Diablo Canyon site, the amounts available for disbursement for state and local costs as specified in this section shall be adjusted and compounded each fiscal year by the larger of the percentage change in the prevailing wage for San Luis Obispo County employees, not to exceed 5 percent, or the percentage increase in the California Consumer Price Index from the previous calendar year.

(f) Through the inoperative date specified in subdivision (g), the amounts available for disbursement for state and local costs as specified in this section shall be cumulative biennially. Any unexpended funds from a year shall be carried over for one year. The funds carried over from the previous year may be expended when the current year's funding cap is exceeded.

(g) This section shall become inoperative on July 1, 2019, and, as of January 1, 2020, is repealed, unless a later enacted statute, which becomes effective on or before July 1, 2019, deletes or extends the dates on which it becomes inoperative and is repealed.

(h) Upon inoperation of this section, any amounts remaining in the special account shall be refunded pro rata to the utilities contributing thereto, to be credited to the utility's ratepayers.

SEC. 2. Section 758 is added to the Public Utilities Code, to read:

758. (a) The commission shall allow an electrical corporation to recover in rates amounts assessed to the utility pursuant to Section 8610.5 of the Government Code.

(b) The commission shall ensure that any moneys refunded to an electrical corporation from the Nuclear Planning Assessment Special Account pursuant to subdivision (h) of Section 8610.5 of the Government Code are credited to ratepayers.

CHAPTER 493

An act to add Section 19881.5 to the Business and Professions Code, and to amend Section 337j of the Penal Code, relating to gaming.

[Approved by Governor October 11, 2007. Filed with Secretary of State October 11, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 19881.5 is added to the Business and Professions Code, to read:

19881.5. The commission may delegate to staff the approval of articles of incorporation, statements of limited partnership, and other entity filings that are required to specifically state that gambling is one of the purposes for which the business entity is formed.

SEC. 2. Section 337j of the Penal Code, as amended by Chapter 176 of the Statutes of 2007, is amended to read:

337j. (a) It is unlawful for any person, as owner, lessee, or employee, whether for hire or not, either solely or in conjunction with others, to do any of the following without having first procured and thereafter maintained in effect all federal, state, and local licenses required by law:

(1) To deal, operate, carry on, conduct, maintain, or expose for play in this state any controlled game.

(2) To receive, directly or indirectly, any compensation or reward or any percentage or share of the revenue, for keeping, running, or carrying on any controlled game.

(3) To manufacture, distribute, or repair any gambling equipment within the boundaries of this state, or to receive, directly or indirectly, any compensation or reward for the manufacture, distribution, or repair of any gambling equipment within the boundaries of this state.

(b) It is unlawful for any person to knowingly permit any controlled game to be conducted, operated, dealt, or carried on in any house or building or other premises that he or she owns or leases, in whole or in part, if that activity is undertaken by a person who is not licensed as required by state law, or by an employee of that person.

(c) It is unlawful for any person to knowingly permit any gambling equipment to be manufactured, stored, or repaired in any house or building or other premises that the person owns or leases, in whole or in part, if that activity is undertaken by a person who is not licensed as required by state law, or by an employee of that person.

(d) Any person who violates, attempts to violate, or conspires to violate this section shall be punished by imprisonment in a county jail

for not more than one year or by a fine of not more than ten thousand dollars ($10,000), or by both imprisonment and fine. A second offense of this section is punishable by imprisonment in a county jail for a period of not more than one year or in the state prison or by a fine of not more than ten thousand dollars ($10,000), or by both imprisonment and fine.

(e) (1) As used in this section, "controlled game" means any poker or Pai Gow game, and any other game played with cards or tiles, or both, and approved by the Department of Justice, and any game of chance, including any gambling device, played for currency, check, credit, or any other thing of value that is not prohibited and made unlawful by statute or local ordinance.

(2) As used in this section, "controlled game" does not include any of the following:

(A) The game of bingo conducted pursuant to Section 326.5.

(B) Parimutuel racing on horse races regulated by the California Horse Racing Board.

(C) Any lottery game conducted by the California State Lottery.

(D) Games played with cards in private homes or residences, in which no person makes money for operating the game, except as a player.

(f) This subdivision is intended to be dispositive of the law relating to the collection of player fees in gambling establishments. A fee may not be calculated as a fraction or percentage of wagers made or winnings earned. The amount of fees charged for all wagers shall be determined prior to the start of play of any hand or round. However, the gambling establishment may waive collection of the fee or portion of the fee in any hand or round of play after the hand or round has begun pursuant to the published rules of the game and the notice provided to the public. The actual collection of the fee may occur before or after the start of play. Ample notice shall be provided to the patrons of gambling establishments relating to the assessment of fees. Flat fees on each wager may be assessed at different collection rates, but no more than five collection rates may be established per table. However, if the gambling establishment waives its collection fee, this fee does not constitute one of the five collection rates.

CHAPTER 494

An act to add Section 14132.23 to the Welfare and Institutions Code, relating to Medi-Cal.

[Approved by Governor October 11, 2007. Filed with Secretary of State October 11, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 14132.23 is added to the Welfare and Institutions Code, to read:

14132.23. (a) (1) Except as set forth in paragraph (2), and notwithstanding any other provision of law or regulation, the active and retentive phases of orthodontic treatment covered under the Medi-Cal program shall be reimbursed on a quarterly basis, as determined by dividing the sum of the authorized treatment allowances by the estimated number of three-month periods that the patient's treatment will require, subject to the department's utilization controls.

(2) The retentive phase of orthodontic treatment shall be reimbursed pursuant to paragraph (1) only until the department implements the Code on Dental Procedures and Nomenclature, as published by the American Dental Association in its Current Dental Terminology manual, at which time paragraph (1) shall not apply to retentive phase orthodontic services that are covered under the Medi-Cal program.

(b) This section shall become operative on July 1, 2008.

CHAPTER 495

An act to amend Section 84505 of, and to add Section 84506.5 to, the Government Code, relating to the Political Reform Act of 1974.

[Approved by Governor October 11, 2007. Filed with Secretary of State October 11, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 84505 of the Government Code is amended to read:

84505. In addition to the requirements of Sections 84503, 84504, 84506, and 84506.5, the committee placing the advertisement or persons acting in concert with that committee shall be prohibited from creating or using a noncandidate-controlled committee or a nonsponsored committee to avoid, or that results in the avoidance of, the disclosure of any individual, industry, business entity, controlled committee, or sponsored committee as a major funding source.

SEC. 2. Section 84506.5 is added to the Government Code, to read:

84506.5. An advertisement supporting or opposing a candidate that is paid for by an independent expenditure must include a statement that

it was not authorized by a candidate or a committee controlled by a candidate.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 4. The Legislature finds and declares that this bill furthers the purposes of the Political Reform Act of 1974 within the meaning of subdivision (a) of Section 81012 of the Government Code.

CHAPTER 496

An act to add Section 8206.5 to the Government Code, relating to notaries public.

[Approved by Governor October 11, 2007. Filed with Secretary of State October 11, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 8206.5 is added to the Government Code, to read:

8206.5. Upon receiving a request for a copy of a transaction pursuant to subdivision (c) of Section 8206, the notary shall respond to the request within 15 business days after receipt of the request and either supply the photostatic copy requested or acknowledge that no such line item exists. In a disciplinary proceeding for noncompliance with subdivision (c) of Section 8206 or this section, a notary may defend his or her delayed action on the basis of unavoidable, exigent business or personal circumstances.

CHAPTER 497

An act to amend Section 5004.1 of the Vehicle Code, relating to vehicles.

[Approved by Governor October 11, 2007. Filed with
Secretary of State October 11, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 5004.1 of the Vehicle Code is amended to read:

5004.1. (a) (1) Subject to paragraph (3), an owner of a vehicle that is a 1969 or older model-year vehicle or the owner of a commercial vehicle or a pickup truck that is a 1972 or older model-year may, after the requirements for the registration of the vehicle are complied with and with the approval of the department, utilize license plates of this state with the date of year corresponding to the model-year date when the vehicle was manufactured, if the model-year date license plate is legible and serviceable, as determined by the department, in lieu of the license plates otherwise required by this code.

(2) The department may consult with an organization of old car hobbyists in determining whether the date of year of the license plate corresponds to the model-year date when the vehicle was manufactured.

(b) A fee of forty-five dollars ($45) shall be charged for the application for the use of the special plates.

(c) In addition to the regular renewal fee for the vehicle for which the plates are authorized, the applicant for a renewal of the plates shall be charged an additional fee of ten dollars ($10). When payment of a regular vehicle renewal fee is not required by this code, the holder of license plates with a date corresponding to the model-year may retain the plates upon payment of an annual fee of twenty dollars ($20), that shall be due at the expiration of the registration year of the vehicle to which the plates were last assigned under this section.

(d) Whenever a person who is authorized to utilize the special license plates applies to the department for transfer of the plates to another vehicle, a transfer fee of twelve dollars ($12) shall be charged in addition to all other appropriate fees.

SEC. 2. This act shall become operative on July 1, 2009.

CHAPTER 498

An act to amend Sections 149.4, 149.5, and 149.6 of the Streets and Highways Code, relating to transportation.

[Approved by Governor October 11, 2007. Filed with
Secretary of State October 11, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 149.4 of the Streets and Highways Code is amended to read:

149.4. (a) (1) Notwithstanding Sections 149 and 30800 of this code, and Section 21655.5 of the Vehicle Code, the San Diego Association of Governments (SANDAG) may conduct, administer, and operate a value pricing and transit development demonstration program on a maximum of two transportation corridors in San Diego County.

(2) The program, under the circumstances described in subdivision (b), may direct and authorize the entry and use of high-occupancy vehicle lanes in corridors identified in paragraph (1) by single-occupant vehicles during peak periods, as defined by SANDAG, for a fee. The amount of the fee shall be established from time to time by SANDAG, and collected in a manner determined by SANDAG. A high-occupancy vehicle lane may only be operated as a high-occupancy toll (HOT) lane during the hours that the lane is otherwise restricted to use by high-occupancy vehicles.

(b) Implementation of the program shall ensure that Level of Service C, as measured by the most recent issue of the Highway Capacity Manual, as adopted by the Transportation Research Board, is maintained at all times in the high-occupancy vehicle lanes, except that subject to a written agreement between the department and SANDAG that is based on operating conditions of the high-occupancy vehicle lanes, Level of Service D shall be permitted on the high-occupancy vehicle lanes. If Level of Service D is permitted, the department and SANDAG shall evaluate the impacts of these levels of service of the high-occupancy vehicle lanes, and indicate any effects on the mixed-flow lanes. Continuance of Level of Service D operating conditions shall be subject to the written agreement between the department and SANDAG. Unrestricted access to the lanes by high-occupancy vehicles shall be available at all times. At least annually, the department shall audit the level of service during peak traffic hours and report the results of that audit at meetings of the program management team.

(c) Single-occupant vehicles that are certified or authorized by SANDAG for entry into, and use of, the high-occupancy vehicle lanes identified in paragraph (1) of subdivision (a) are exempt from Section 21655.5 of the Vehicle Code, and the driver shall not be in violation of the Vehicle Code because of that entry and use.

(d) SANDAG shall carry out the program in cooperation with the department pursuant to a cooperative agreement that addresses all matters related to design, construction, maintenance, and operation of state highway system facilities in connection with the value pricing and transit

development demonstration program. With the assistance of the department, SANDAG shall establish appropriate traffic flow guidelines for the purpose of ensuring optimal use of the express lanes by high-occupancy vehicles without adversely affecting other traffic on the state highway system.

(e) (1) Agreements between SANDAG, the department, and the Department of the California Highway Patrol shall identify the respective obligations and liabilities of those entities and assign them responsibilities relating to the program. The agreements entered into pursuant to this section shall be consistent with agreements between the department and the United States Department of Transportation relating to this program and shall include clear and concise procedures for enforcement by the Department of the California Highway Patrol of laws prohibiting the unauthorized use of the high-occupancy vehicle lanes. The agreements shall provide for reimbursement of state agencies, from revenues generated by the program, federal funds specifically allocated to SANDAG for the program by the federal government, or other funding sources that are not otherwise available to state agencies for transportation-related projects, for costs incurred in connection with the implementation or operation of the program.

(2) The revenue generated from the program shall be available to SANDAG for the direct expenses related to the operation (including collection and enforcement), maintenance, and administration of the demonstration program. Administrative expenses shall not exceed 3 percent of the revenues.

(3) All remaining revenue generated by the demonstration program shall be used in the corridor from which the revenue was generated exclusively for preconstruction, construction, and other related costs of high-occupancy vehicle facilities and the improvement of transit service, including, but not limited to, support for transit operations pursuant to an expenditure plan adopted by SANDAG.

(f) (1) SANDAG may issue bonds at any time to finance any costs necessary to implement the value pricing program established pursuant to subdivision (a) and any expenditures as may be provided for in the expenditure plan adopted pursuant to paragraph (3) of subdivision (e), payable from the revenues generated from the program.

(2) The maximum bonded indebtedness that may be outstanding at any one time shall not exceed an amount that may be serviced from the estimated revenues generated from the program.

(3) The bonds shall bear interest at a rate or rates not exceeding the maximum allowable by law, payable at intervals determined by SANDAG.

(4) Any bond issued pursuant to this subdivision shall contain on its face a statement to the following effect:

"Neither the full faith and credit nor the taxing power of the State of California is pledged to the payment of principal of, as the interest of this bond."

(5) Bonds shall be issued pursuant to a resolution of SANDAG adopted by a two-thirds vote of its governing board. The resolution shall state all of the following:

(A) The purposes for which the proposed debt is to be incurred.

(B) The estimated cost of accomplishing those purposes.

(C) The amount of the principal of the indebtedness.

(D) The maximum term of the bonds and the interest rate.

(E) The denomination or denominations of the bonds, which shall not be less than five thousand dollars ($5,000).

(F) The form of the bonds.

(g) Not later than three years after SANDAG first collects revenues from any of the projects described in paragraph (1) of subdivision (a), SANDAG shall submit a report to the Legislature on its findings, conclusions, and recommendations concerning the demonstration program authorized by this section. The report shall include an analysis of the effect of the HOT lanes on the adjacent mixed-flow lanes and any comments submitted by the department and the Department of the California Highway Patrol regarding operation of the lane.

SEC. 2. Section 149.5 of the Streets and Highways Code is amended to read:

149.5. (a) (1) Notwithstanding Sections 149 and 30800 of this code, and Section 21655.5 of the Vehicle Code, the Sunol Smart Carpool Lane Joint Powers Authority (SSCLJPA), consisting of the Alameda County Congestion Management Agency, Alameda County Transportation Improvement Authority, and the Santa Clara Valley Transportation Authority, may conduct, administer, and operate a value pricing high-occupancy vehicle program on the Sunol Grade segment of State Highway Route 680 (Interstate 680) in Alameda and Santa Clara Counties and the Alameda County Congestion Management Agency may conduct, administer, and operate a program on a corridor within Alameda County for a maximum of two transportation corridors in Alameda County pursuant to this section in coordination with the Metropolitan Transportation Commission and consistent with Section 21655.6 of the Vehicle Code.

(2) The program, under the circumstances described in subdivision (b), may direct and authorize the entry and use of the high-occupancy vehicle lanes in the corridors identified in paragraph (1) by single-occupant vehicles for a fee. The fee structure for each corridor

shall be established from time to time by the administering agency. A high-occupancy vehicle lane may only be operated as a high-occupancy toll (HOT) lane during the hours that the lane is otherwise restricted to use by high-occupancy vehicles.

(3) The administering agency for each corridor shall enter into a cooperative agreement with the Bay Area Toll Authority to operate and manage the electronic toll collection system.

(b) Implementation of the program shall ensure that Level of Service C, as measured by the most recent issue of the Highway Capacity Manual, as adopted by the Transportation Research Board, is maintained at all times in the high-occupancy vehicle lanes, except that subject to a written agreement between the department and the administering agency that is based on operating conditions of the high-occupancy vehicle lanes, Level of Service D shall be permitted on the high-occupancy vehicle lanes. If Level of Service D is permitted, the department and the administering agency shall evaluate the impacts of these levels of service on the high-occupancy vehicle lanes, and indicate any effects on the mixed-flow lanes. Continuance of Level of Service D operating conditions shall be subject to the written agreement between the department and the administering agency. Unrestricted access to the lanes by high-occupancy vehicles shall be available at all times. At least annually, the department shall audit the level of service during peak traffic hours and report the results of that audit at meetings of the administering agency.

(c) Single-occupant vehicles that are certified or authorized by the administering agency for entry into, and use of, the high-occupancy vehicle lanes identified in paragraph (1) of subdivision (a) are exempt from Section 21655.5 of the Vehicle Code, and the driver shall not be in violation of the Vehicle Code because of that entry and use.

(d) The administering agency shall carry out the program in cooperation with the department pursuant to a cooperative agreement that addresses all matters related to design, construction, maintenance, and operation of state highway system facilities in connection with the value pricing high-occupancy vehicle program. With the assistance of the department, the administering agency shall establish appropriate traffic flow guidelines for the purpose of ensuring optimal use of the high-occupancy toll lanes by high-occupancy vehicles without adversely affecting other traffic on the state highway system.

(e) (1) Agreements between the administering agency, the department, and the Department of the California Highway Patrol shall identify the respective obligations and liabilities of those entities and assign them responsibilities relating to the program. The agreements entered into pursuant to this section shall be consistent with agreements between the department and the United States Department of Transportation relating

to programs of this nature. The agreements shall include clear and concise procedures for enforcement by the Department of the California Highway Patrol of laws prohibiting the unauthorized use of the high-occupancy vehicle lanes, which may include the use of video enforcement. The agreements shall provide for reimbursement of state agencies, from revenues generated by the program, or other funding sources that are not otherwise available to state agencies for transportation-related projects, for costs incurred in connection with the implementation or operation of the program.

(2) The revenue generated from the program shall be available to the administering agency for the direct expenses related to the operation (including collection and enforcement), maintenance, construction, and administration of the program. Administrative expenses shall not exceed 3 percent of the revenues.

(3) All net revenue generated by the program that remains after payment of direct expenses pursuant to paragraph (2) shall be allocated pursuant to an expenditure plan adopted biennially by the administering agency for transportation purposes within the program area. The expenditure plan may include funding for the following:

(A) The construction of high-occupancy vehicle facilities, including the design, preconstruction, construction, and other related costs of the northbound Interstate 680 Sunol Smart Carpool Lane project.

(B) Transit capital and operations that directly serve the authorized corridors.

(f) (1) The administering agency may issue bonds, refunding bonds, or bond anticipation notes, at any time to finance construction and construction-related expenditures of programs adopted pursuant to subdivision (a) and construction and construction-related expenditures that are included in the expenditure plan adopted pursuant to paragraph (3) of subdivision (e), payable solely from the revenues generated from the respective programs.

(2) The maximum bonded indebtedness that may be outstanding at any one time shall be an amount equal to the sum of the principal of, and interest on, the bonds, but not to exceed the estimated revenues generated from the respective programs.

(3) Bonds shall be issued pursuant to a resolution adopted by a two-thirds vote of the governing board of the administering agency. The resolution shall state all of the following:

(A) The purposes for which the proposed debt is to be incurred.

(B) The estimated cost of accomplishing those purposes.

(C) The amount of the principal of the indebtedness.

(D) The maximum term the bonds proposed to be issued shall run before maturity.

(E) The maximum rate of interest to be paid, which shall not exceed the maximum allowable by law.

(F) The denomination or denominations of the bonds, which shall not be less than five thousand dollars ($5,000).

(G) The form of the bonds, including, without limitation, registered bonds and coupon bonds, to the extent permitted by federal law, the registration, conversion, and exchange privileges, if any pertaining thereto, and the time when all of, or any part of, the principal becomes due and payable.

(H) Any other matters authorized by law.

(4) The bonds shall bear interest at a rate or rates not exceeding the maximum allowable by law, payable at intervals determined by the administering agency.

(5) The full amount of bonds may be divided into two or more series and different dates of payment fixed for the bonds of each series. A bond shall not be required to mature on its anniversary date.

(6) Any bond issued pursuant to this subdivision shall contain on its face a statement to the following effect:

"Neither the full faith and credit nor the taxing power of the State of California is pledged to the payment of principal of, or the interest on, this bond."

(g) Not later than three years after the administering agency first collects revenues from the program authorized by this section, the administering agency shall submit a report to the Legislature on its findings, conclusions, and recommendations concerning the demonstration program authorized by this section. The report shall include an analysis of the effect of the HOT lanes on the adjacent mixed-flow lanes and any comments submitted by the department and the Department of the California Highway Patrol regarding operation of the lane.

SEC. 3. Section 149.6 of the Streets and Highways Code is amended to read:

149.6. (a) Notwithstanding Sections 149 and 30800, and Section 21655.5 of the Vehicle Code, the Santa Clara Valley Transportation Authority (VTA) created by Part 12 (commencing with Section 100000) of the Public Utilities Code may conduct, administer, and operate a value pricing program on any two of the transportation corridors included in the high-occupancy vehicle lane system in Santa Clara County in coordination with the Metropolitan Transportation Commission and consistent with Section 21655.6 of the Vehicle Code.

(1) VTA, under the circumstances described in subdivision (b), may direct and authorize the entry and use of those high-occupancy vehicle lanes by single-occupant vehicles for a fee. The fee structure shall be

established from time to time by the authority. A high-occupancy vehicle lane may only be operated as a high-occupancy toll (HOT) lane during the hours that the lane is otherwise restricted to use by high-occupancy vehicles.

(2) VTA shall enter into a cooperative agreement with the Bay Area Toll Authority to operate and manage the electronic toll collection system.

(b) Implementation of the program shall ensure that Level of Service C, as measured by the most recent issue of the Highway Capacity Manual, as adopted by the Transportation Research Board, is maintained at all times in the high-occupancy vehicle lanes, except that subject to a written agreement between the department and VTA that is based on operating conditions of the high-occupancy vehicle lanes, Level of Service D shall be permitted on the high-occupancy vehicle lanes. If Level of Service D is permitted, the department and VTA shall evaluate the impacts of these levels of service on the high-occupancy vehicle lanes, and indicate any effects on the mixed-flow lanes. Continuance of Level of Service D operating conditions shall be subject to the written agreement between the department and VTA. Unrestricted access to the lanes by high-occupancy vehicles shall be available at all times. At least annually, the department shall audit the level of service during peak traffic hours and report the results of that audit at meetings of the program management team.

(c) Single-occupant vehicles that are certified or authorized by the authority for entry into, and use of, the high-occupancy vehicle lanes in Santa Clara County are exempt from Section 21655.5 of the Vehicle Code, and the driver shall not be in violation of the Vehicle Code because of that entry and use.

(d) VTA shall carry out the program in cooperation with the department pursuant to a cooperative agreement that addresses all matters related to design, construction, maintenance, and operation of state highway system facilities in connection with the value pricing program. With the assistance of the department, VTA shall establish appropriate traffic flow guidelines for the purpose of ensuring optimal use of the high-occupancy toll lanes by high-occupancy vehicles without adversely affecting other traffic on the state highway system.

(e) (1) Agreements between VTA, the department, and the Department of the California Highway Patrol shall identify the respective obligations and liabilities of those entities and assign them responsibilities relating to the program. The agreements entered into pursuant to this section shall be consistent with agreements between the department and the United States Department of Transportation relating to this program. The agreements shall include clear and concise procedures for

enforcement by the Department of the California Highway Patrol of laws prohibiting the unauthorized use of the high-occupancy vehicle lanes, which may include the use of video enforcement. The agreements shall provide for reimbursement of state agencies, from revenues generated by the program, federal funds specifically allocated to the authority for the program by the federal government, or other funding sources that are not otherwise available to state agencies for transportation-related projects, for costs incurred in connection with the implementation or operation of the program.

(2) The revenues generated by the program shall be available to VTA for the direct expenses related to the operation (including collection and enforcement), maintenance, construction, and administration of the program. The VTA's administrative costs in the operation of the program shall not exceed 3 percent of the revenues.

(3) All remaining revenue generated by the program shall be used in the corridor from which the revenues were generated exclusively for the preconstruction, construction, and other related costs of high-occupancy vehicle facilities and the improvement of transit service, including, but not limited to, support for transit operations pursuant to an expenditure plan adopted by the VTA.

(f) (1) The VTA may issue bonds, refunding bonds, or bond anticipation notes, at any time to finance construction and construction-related expenditures necessary to implement the value pricing program established pursuant to subdivision (a) and construction and construction-related expenditures that are provided for in the expenditure plan adopted pursuant to paragraph (3) of subdivision (e), payable from the revenues generated from the program.

(2) The maximum bonded indebtedness that may be outstanding at any one time shall not exceed an amount that may be serviced from the estimated revenues generated from the program.

(3) The bonds shall bear interest at a rate or rates not exceeding the maximum allowable by law, payable at intervals determined by the authority.

(4) Any bond issued pursuant to this subdivision shall contain on its face a statement to the following effect:

"Neither the full faith and credit nor the taxing power of the State of California is pledged to the payment of principal of, or the interest on, this bond."

(5) Bonds shall be issued pursuant to a resolution of VTA adopted by a two-thirds vote of its governing board. The resolution shall state all of the following:

(A) The purposes for which the proposed debt is to be incurred.

(B) The estimated cost of accomplishing those purposes.

(C) The amount of the principal of the indebtedness.

(D) The maximum term of the bonds and the interest rate.

(E) The denomination or denominations of the bonds, which shall not be less than five thousand dollars ($5,000).

(F) The form of the bonds, including, without limitation, registered bonds and coupon bonds, to the extent permitted by federal law, the registration, conversion, and exchange privileges, if applicable, and the time when all of, or any part of, the principal becomes due and payable.

(G) Any other matters authorized by law.

(6) The full amount of bonds may be divided into two or more series and different dates of payment fixed for the bonds of each series. A bond shall not be required to mature on its anniversary date.

(g) Not later than three years after VTA first collects revenues from any of the projects described in paragraph (1) of subdivision (a), VTA shall submit a report to the Legislature on its findings, conclusions, and recommendations concerning the demonstration program authorized by this section. The report shall include an analysis of the effect of the HOT lanes on adjacent mixed-flow lanes and any comments submitted by the department and the Department of the California Highway Patrol regarding operation of the lanes.

CHAPTER 499

An act to amend and renumber Section 17921.5 of, to add Sections 17921.4 and 18944.11 to, and to repeal and add Section 17921.3 of, the Health and Safety Code, relating to water conservation appliances.

[Approved by Governor October 11, 2007. Filed with Secretary of State October 11, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 17921.3 of the Health and Safety Code is repealed.

SEC. 2. Section 17921.3 is added to the Health and Safety Code, to read:

17921.3. (a) All water closets and urinals installed or sold in this state shall meet performance, testing, and labeling requirements established by the American Society of Mechanical Engineers standard A112.19.2-2003, or A112.19.14-2001, as applicable. No other marking and labeling requirements shall be required by the state. All water closets and urinals installed or sold in this state shall be listed by an American

National Standards Institute accredited third-party certification agency to the appropriate American Society of Mechanical Engineers standards set forth in this subdivision. No other listing or certification requirements shall be required by the state.

(b) (1) All water closets sold or installed in this state shall use no more than an average of 1.6 gallons per flush. On and after January 1, 2014, all water closets, other than institutional water closets, sold or installed in this state shall be high-efficiency water closets.

(2) All urinals sold or installed in this state shall use no more than an average of one gallon per flush. On and after January 1, 2014, all urinals, other than blow-out urinals, sold or installed in this state shall be high-efficiency urinals.

(3) Each manufacturer selling water closets or urinals in this state shall have not less than the following percentage of models offered for sale in this state of high-efficiency water closets plus high-efficiency urinals as compared to the total number of models of water closets plus urinals offered for sale in this state by that manufacturer:

(A) Fifty percent in 2010.

(B) Sixty-seven percent in 2011.

(C) Seventy-five percent in 2012.

(D) Eighty-five percent in 2013.

(E) One hundred percent in 2014 and thereafter.

(4) Each manufacturer that sells water closets or urinals in this state shall inform the State Energy Resources Conservation and Development Commission, the department, and the California Building Standards Commission, in writing, of the percentage of models of high-efficiency water closets plus high-efficiency urinals offered for sale in this state as compared to the total number of models of water closets plus urinals offered for sale in this state by that manufacturer for each year 2010 to 2013, inclusive, by January 30 of that year.

(c) Any city, county, or city and county may enact an ordinance to allow the sale and installation of nonlow-consumption water closets or urinals upon its determination that the unique configuration of building drainage systems or portions of a public sewer system within the jurisdiction, or both, requires a greater quantity of water to flush the system in a manner consistent with public health. At the request of a public agency providing sewer services within the jurisdiction, the city, county, or city and county shall hold a public hearing on the need for an ordinance as provided in this subdivision. Prior to this hearing or to the enactment of the ordinance, those agencies responsible for the provision of water and sewer services within the jurisdiction, if other than the agency considering adoption of the ordinance, shall be given at least 30

days' notice of the meeting at which the ordinance may be considered or adopted.

(d) Notwithstanding subdivision (b), on and after January 1, 1994, water closets and urinals that do not meet the standards referenced in subdivision (b) may be sold or installed for use only under either of the following circumstances:

(1) Installation of the water closet or urinal to comply with the standards referenced in subdivision (b) would require modifications to plumbing system components located beneath a finished wall or surface.

(2) The nonlow-consumption water closets, urinals, and flushometer valves, if any, would be installed in a home or building that has been identified by a local, state, or federal governmental entity as a historical site and historically accurate water closets and urinals that comply with the flush volumes specified in subdivision (b) are not available.

(e) (1) This section does not preempt any actions of cities, counties, cities and counties, or districts that prescribe additional or more restrictive conservation requirements affecting either of the following:

(A) The sale, installation, or use of low-consumption water closets, urinals, and flushometer valves that meet the standards referenced in subdivision (a), (b), or (c).

(B) The continued use of nonlow-consumption water closets, urinals, and flushometer valves.

(2) This section does not grant any new or additional powers to cities, counties, cities and counties, or districts to promulgate or establish laws, ordinances, regulations, or rules governing the sale, installation, or use of low-consumption water closets, urinals, and flushometer valves.

(f) The California Building Standards Commission or the department may, by regulation, reduce the quantity of water per flush required pursuant to this section if deemed appropriate or not inconsistent in light of other standards referenced in the most recent version of the California Plumbing Code, and may refer to successor standards to the standards referenced in this section if determined appropriate in light of standards referenced in the most recent version of the California Plumbing Code.

(g) As used in this section, the following terms have the following meanings:

(1) "Blow-out urinal" means a urinal designed for heavy-duty commercial applications that work on a powerful nonsiphonic principle.

(2) "High-efficiency water closet" means a water closet that is either of the following:

(A) A dual flush water closet with an effective flush volume that does not exceed 1.28 gallons, where effective flush volume is defined as the composite, average flush volume of two reduced flushes and one full

flush. Flush volumes shall be tested in accordance with ASME A112.19.2 and ASME A112.19.14.

(B) A single flush water closet where the effective flush volume shall not exceed 1.28 gallons. The effective flush volume is the average flush volume when tested in accordance with ASME A112.19.2.

(3) "High-efficiency urinal" means a urinal that uses no more than 0.5 gallons per flush.

(4) "Institutional water closet" means any water closet fixture with a design not typically found in residential or commercial applications or that is designed for a specialized application, including, but not limited to, wall-mounted floor-outlet water closets, water closets used in jails or prisons, water closets used in bariatrics applications, and child water closets used in day care facilities.

(5) "Nonlow-consumption flushometer valve," "nonlow-consumption urinal," and "nonlow-consumption water closet" mean devices that use more than 1.6 gallons per flush for toilets and more than 1.0 gallons per flush for urinals.

(6) "Urinal" means a water-using urinal.

(7) "Wall-mounted/wall-outlet water closets" means models that are mounted on the wall and discharge to the drainage system through the wall.

(h) For purposes of this section, all consumption values shall be determined by the test procedures contained in the American Society of Mechanical Engineers standard A112.19.2-2003 or A112.19.14-2001.

(i) This section shall remain operative only until January 1, 2014, or until the date on which the California Building Standards Commission includes standards in the California Building Standards Code that conform to this section, whichever date is later.

SEC. 3. Section 17921.4 is added to the Health and Safety Code, to read:

17921.4. (a) A nonwater-supplied urinal approved for installation or sold in this state shall satisfy all of the following requirements:

(1) Meet performance, testing, and labeling requirements established by the American Society of Mechanical Engineers standard A112.19.19-2006.

(2) Be listed by an American National Standards Institute accredited third-party certification agency to the American Society of Mechanical Engineers standard A112.19.19-2006.

(3) Provide a trap seal that complies with the California Plumbing Code.

(4) Permit the uninhibited flow of waste through the urinal to the sanitary drainage system.

(5) Be cleaned and maintained in accordance with the manufacturer's instructions after installation.

(6) Be installed with a water supply rough-in to the urinal location that would allow a subsequent replacement of the nonwater-supplied urinal with a water-supplied urinal if desired by the owner or if required by the enforcement agency.

(b) As used in this section, the following terms have the following meanings:

(1) "Building" means any structure subject to this part, and any structure subject to the California Building Standards Law as set forth in Part 2.5 (commencing with Section 18901).

(2) "Water supply rough-in" means the installation of water distribution and fixture supply piping sized to accommodate a water-supplied urinal to an in-wall point immediately adjacent to the urinal location.

(c) Nothing in this section shall restrict the authority of the California Building Standards Commission to require any additional conditions on the installation and use of nonwater-supplied urinals.

SEC. 4. Section 17921.5 of the Health and Safety Code is amended and renumbered to read:

17921.6. Except as provided in Sections 18930 and 18949.5, the department shall prepare and adopt minimum standards regulating the use and application of cellular concrete as it determines are reasonably necessary for the protection of life and property.

SEC. 5. Section 18944.11 is added to the Health and Safety Code, to read:

18944.11. On or before July 1, 2009, any state agency that adopts or proposes building standards for plumbing systems shall consider developing building standards that would govern the use of nonwater-supplied urinals for submission to the California Building Standards Commission in accordance with Sections 17921.4 and 18930.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CHAPTER 500

An act to amend Section 14407.1 of the Welfare and Institutions Code, relating to Medi-Cal.

[Approved by Governor October 11, 2007. Filed with Secretary of State October 11, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 14407.1 of the Welfare and Institutions Code is amended to read:

14407.1. (a) A contractor that has entered into a contract with the department under this chapter, or under any other Medi-Cal managed care contracting authority, may offer nonmonetary incentives to promote good health practices by its existing Medi-Cal enrollees.

(b) No Medi-Cal managed care contractor may offer any incentive to promote good health practices by its Medi-Cal enrollees prior to written approval by the department. In the absence of other countervailing considerations, the department shall approve, to the extent permitted by federal law, the use by health plans of nonmonetary incentives to enhance health education program efforts to increase member participation, learning, and motivation to do any of the following:

(1) Effectively use managed health care services, including preventive and primary care services, obstetrical care, and health education services.

(2) Modify personal health behaviors, achieving and maintaining healthy lifestyles and treatment therapies and positive health outcomes.

(3) Following self-care regimens and treatment therapies for existing medical conditions, chronic diseases, or health conditions.

(c) If a contractor is a publicly operated entity, the offering of a department-approved, nonmonetary incentive to promote good health practices by enrollees shall not constitute a gift of public funds.

(d) Violations of this section shall be subject to the requirements and penalties set forth in Sections 14408 and 14409, and any regulations adopted by the department pursuant to this article.

(e) The department shall develop and publish written guidelines for the appropriate use of nonmonetary incentives that may be offered to Medi-Cal enrollees.

CHAPTER 501

An act to amend Sections 14299 and 19251 of, and to add Sections 14300 and 19255 to, the Elections Code, relating to elections.

[Approved by Governor October 11, 2007. Filed with Secretary of State October 11, 2007.]

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares that, while new voting technologies hold great promise, changes in the law are necessary to ensure elections remain secure, accurate, and reliable.

SEC. 2. Section 14299 of the Elections Code is amended to read:

14299. (a) If a precinct board is unable to furnish a ballot to a qualified voter because there is an insufficient number of ballots at the precinct, the elections official shall deliver to the precinct additional ballots to ensure that all eligible voters can cast their ballots within two hours.

(b) While awaiting the delivery of additional ballots, the precinct board shall provide each voter with the option of casting his or her vote immediately using an alternative procedure established prior to the election or waiting for the delivery of the additional ballots.

(c) The alternative procedure required by this section shall be subject to approval by the Secretary of State. The elections official shall submit the alternative procedure to the Secretary of State for approval by a date to be determined by the Secretary of State.

SEC. 3. Section 14300 is added to the Elections Code, to read:

14300. (a) In the case of an election for a state or federal office, each polling place using a direct recording electronic voting system, as defined by Section 19251, the elections official shall provide paper ballots equivalent to the following percentages:

(1) For a statewide general election, no less than 10 percent of the registered voters in the polling place.

(2) For a statewide direct primary election, for each partisan ballot form for which at least 10 percent of the registered voters in the polling place are eligible to request, no less than 5 percent of the registered voters in the precinct eligible to request that ballot form at the polling place. For nonpartisan voters, the total number of paper ballots among all ballot forms that they are eligible to request shall be no less than 5 percent of registered nonpartisan voters at the polling place.

(3) For any other state or federal election contest, no less than 5 percent of registered voters at the polling place.

(4) For purposes of this section, the number of registered voters shall be based on the registration on the 88th day prior to the day of the election.

(b) The elections official shall establish procedures for the use of the paper ballots described in this section in the event the direct recording electronic voting system becomes nonfunctional.

(c) Upon request, the precinct board shall provide a paper ballot to a voter, regardless of the availability of the direct recording electronic voting system, as long as supplies remain available.

(d) The paper ballots described in this section may consist of provisional ballots.

(e) Any vote cast on a provisional ballot subject to this section by an otherwise qualified voter shall be counted as a regular ballot and shall not be subject to the requirements of Section 14310.

SEC. 4. Section 19251 of the Elections Code is amended to read:

19251. For purposes of this article, the following terms shall have the following meanings:

(a) "Accessible" means that the information provided on the paper record copy from the voter verified paper audit trail mechanism is provided or conveyed to voters via both a visual and a nonvisual method, such as through an audio component.

(b) "Direct recording electronic voting system" means a voting system that records a vote electronically and does not require or permit the voter to record his or her vote directly onto a tangible ballot.

(c) "Voter verified paper audit trail" means a component of a direct recording electronic voting system that prints a contemporaneous paper record copy of each electronic ballot and allows each voter to confirm his or her selections before the voter casts his or her ballot.

(d) "Federal qualification" means the system has been certified, if applicable, by means of qualification testing by a Nationally Recognized Test Laboratory and has met or exceeded the minimum requirements set forth in the Performance and Text Standards for Punch Card, Mark Sense, and Direct Recording Electronic Voting Systems, or in any successor voluntary standard document, developed and promulgated by the Federal Election Commission, the Election Assistance Commission, or the National Institute of Standards and Technology.

(e) "Paper record copy" means an auditable document printed by a voter verified paper audit trail component that corresponds to the voter's electronic vote and lists the contests on the ballot and the voter's selections for those contests. A paper record copy is not a ballot.

(f) "Parallel monitoring" means the testing of a randomly selected sampling of voting equipment on election day designed to simulate actual

election conditions to confirm that the system is registering votes accurately.

SEC. 5. Section 19255 is added to the Elections Code, to read:

19255. (a) For each statewide election, the Secretary of State shall conduct parallel monitoring of each direct recording electronic voting system on which ballots will be cast. This section shall only apply to precincts that have more than one direct recording electronic voting system.

(b) The results of the parallel monitoring shall be made available prior to the certification of the election.

SEC. 6. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

CHAPTER 502

An act to amend Sections 10951 and 10960 of the Welfare and Institutions Code, relating to public social services.

[Approved by Governor October 11, 2007. Filed with Secretary of State October 11, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 10951 of the Welfare and Institutions Code is amended to read:

10951. (a) No person shall be entitled to a hearing pursuant to this chapter unless he or she files his or her request for the same within 90 days after the order or action complained of.

(b) (1) Notwithstanding subdivision (a), a person shall be entitled to a hearing pursuant to this chapter if he or she files the request more than 90 days after the order or action complained of and there is good cause for filing the request beyond the 90-day period. The director may determine whether good cause exists.

(2) For purposes of this subdivision "good cause" means a substantial and compelling reason beyond the party's control, considering the length of the delay, the diligence of the party making the request, and the potential prejudice to the other party. The inability of a person to understand an adequate and language compliant notice, in and of itself, shall not constitute good cause. In no event shall the department grant

a request for a hearing where the request is filed more than 180 days after the order or action complained of.

(3) Nothing in this section shall preclude the application of the principles of equity jurisdiction as otherwise provided by law.

(c) Notwithstanding the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), the department shall implement this section through an all-county information notice no later than January 1, 2008. The department may also provide further instructions through training notes.

SEC. 2. Section 10960 of the Welfare and Institutions Code is amended to read:

10960. (a) Within 30 days after receiving the decision of the director, which is the proposed decision of an administrative law judge adopted by the director as final, a final decision rendered by an administrative law judge, or a decision issued by the director himself or herself, the affected county or applicant or recipient may file a request with the director for a rehearing. The director shall immediately serve a copy of the request on the other party to the hearing and that other party may within five days of the service file with the director a written statement supporting or objecting to the request. The director shall grant or deny the request no later than the 35th working day after the request is made to ensure the prompt and efficient administration of the hearing process. If the director grants the request, the rehearing shall be conducted in the same manner and subject to the same time limits as the original hearing.

(b) The grounds for requesting a rehearing are as follows:

(1) The adopted decision is inconsistent with the law.

(2) The adopted decision is not supported by the evidence in the record.

(3) The adopted decision is not supported by the findings.

(4) The adopted decision does not address all of the claims or issues raised by the parties.

(5) The adopted decision does not address all of the claims or issues supported by the record or evidence.

(6) The adopted decision does not set forth sufficient information to determine the basis for its legal conclusion.

(7) Newly discovered evidence, that was not in custody or available to the party requesting rehearing at the time of the hearing, is now available and the new evidence, had it been introduced, could have changed the hearing decision.

(8) For any other reason necessary to prevent the abuse of discretion or an error of law, or for any other reason consistent with the provisions of Section 1094.5 of the Code of Civil Procedure.

(c) The notice granting or denying the rehearing request shall explain the reasons and legal basis for granting or denying the request for rehearing.

(d) The decision of the director, which is the proposed decision of an administrative law judge adopted by the director as final, a final decision rendered by an administrative law judge, or a decision issued by the director himself or herself, remains final pending a request for a rehearing. Only after rehearing is granted is the decision no longer the final decision in the case.

(e) Notwithstanding any other provision of law, a rehearing request or decision shall not be a prerequisite to filing an action under Section 10962.

(f) (1) Notwithstanding subdivision (a), an applicant or recipient may otherwise be entitled to a rehearing pursuant to this chapter if he or she files a request more than 30 days after the decision of the director is issued, or if he or she did not receive a copy of the decision of the director, or if there is good cause for filing beyond the 30-day period. The director may determine whether good cause exists.

(2) For purposes of this subdivision "good cause" means a substantial and compelling reason beyond the party's control, considering the length of the delay, the diligence of the party making the request, and the potential prejudice to the other party. The inability of a person to understand an adequate and language compliant notice, in and of itself, shall not constitute good cause. In no event shall the department grant a request for a hearing where the request is filed more than 180 days after the order or action complained of.

(3) Nothing in this section shall preclude the application of the principles of equity jurisdiction as otherwise provided by law.

(g) Notwithstanding the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), the department shall implement this section through an all-county information notice no later than January 1, 2008. The department may also provide further instructions through training notes.

CHAPTER 503

An act to amend Section 21157.7 of the Public Resources Code, relating to the environment.

[Approved by Governor October 11, 2007. Filed with Secretary of State October 11, 2007.]

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) Numerous state and local laws regulate agricultural lands, wildlife habitat, wetlands, forests, cultural and historic resources, and other natural resources.

(b) When developing its projects, the Department of Transportation (department) is required to comply with many of these laws, some of which require mitigation for any adverse impact upon natural resources resulting from the development of a project or facility.

(c) The voters of California approved 42.7 billion dollars ($42,700,000,000) in general obligation bonds for capital improvements in November 2007.

(d) Subdivision (b) of Section 8879.23 of the Government Code, which is part of the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006 (Chapter 12.49 (commencing with Section 8879.20) of Division 1 of Title 2 of the Government Code) authorizes one billion dollars ($1,000,000,000) to be appropriated to the department for improvements to Highway 99.

(e) Those bond proceeds may be used for safety, operational enhancements, rehabilitation, or capacity improvements along the approximately 400-mile corridor in the central valley. Some of these activities will require environmental mitigation.

(f) The Governor's Executive Order S-02-07 directs all departments, boards, offices, commissions, and other entities of state government to be accountable for ensuring that bond proceeds are spent efficiently, effectively, and in the best interests of the people of the State of California.

(g) The same executive order directs state agencies and departments to cooperate in the implementation of the order.

(h) Identifying mitigation needs on a regional basis may expedite the planning and mitigation processes, as well as result ultimately in consolidated mitigation areas that can be managed more cost effectively.

(i) It is the intent of the Legislature in enacting this bill to provide authority to the department to improve the efficiency and effectiveness of meeting its mitigation responsibilities for Highway 99 improvements.

SEC. 2. Section 21157.7 of the Public Resources Code is amended to read:

21157.7. (a) For purposes of this section, a master environmental impact report is a document prepared in accordance with subdivision (c) for the projects described in subdivision (b) that, upon certification, is followed by review of subsequent projects as provided in Sections 21157.1 and 21157.5.

(b) A master environmental impact report may be prepared for a plan adopted by the Department of Transportation for improvements to regional segments of Highway 99 funded pursuant to subdivision (b) of Section 8879.23 of the Government Code, to streamline, coordinate, and improve environmental review.

(c) The report shall include all of the following:

(1) A detailed statement as required by Section 21100.

(2) A description of the anticipated highway improvements along Highway 99 that would be within the scope of the master environmental impact report, that contains sufficient information about all phases of the Highway 99 construction activities, including, but not limited to, all of the following:

(A) The specific types of improvements that will be undertaken.

(B) The anticipated location and alternative locations for any of the Highway 99 improvements, including overpasses, bridges, railroad crossings, and interchanges.

(C) A capital outlay or capital improvement program, or other scheduling or implementing device that governs the construction activities associated with the Highway 99 improvements.

(d) The Department of Transportation may communicate, coordinate, and consult with the Resources Agency, Wildlife Conservation Board, Department of Fish and Game, Department of Conservation, and other appropriate federal, state, or local governments, including interested stakeholders, to consider and implement mitigation requirements on a regional basis for the projects described in subdivision (b). This may include both of the following:

(1) Identification of priority areas for mitigation, using information from these agencies and departments as well as from other sources.

(2) Utilization of existing conservation programs of the agencies or departments identified in this subdivision, if mitigation under those programs for improvements under this section does not supplant mitigation for a project.

(e) The Department of Transportation may execute an agreement, memorandum of understanding, or other similar instrument to memorialize its understanding of any communication, coordination, or implementation activities with other state agencies for the purposes of meeting mitigation requirements on a regional basis.

(f) Notwithstanding any other provision of law, nothing in this section is intended to interfere with or prevent the existing authority of an agency or department to carry out its programs, projects, or responsibilities to identify, review, approve, deny, or implement any mitigation requirements, and nothing in this section shall be construed as a limitation

on mitigation requirements for the project, or a limitation on compliance with requirements under this division or any other provision of law.

(g) Notwithstanding Section 21157.6, the master environmental impact report shall not be used for the purposes of this section, if the certification of the master environmental impact report occurred more than seven years prior to the filing of an application for the subsequent project.

CHAPTER 504

An act to amend Section 55800 of the Government Code, and to amend Section 7285.5 of the Revenue and Taxation Code, relating to local agency finance, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 11, 2007. Filed with Secretary of State October 11, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 55800 of the Government Code is amended to read:

55800. (a) (1) As part of the ballot proposition to approve the imposition of a retail transactions and use tax pursuant to Chapter 2 (commencing with Section 7285) of Part 1.7 of Division 2 of the Revenue and Taxation Code, an authority established pursuant to Section 7285.5 of the Revenue and Taxation Code may seek authorization to issue bonds payable from the proceeds of the tax to finance capital outlay expenditures as may be provided for in the expenditure plan adopted pursuant to subdivision (c) of Section 7285.5 of the Revenue and Taxation Code.

(2) If an authority established pursuant to Section 7285.5 of the Revenue and Taxation Code has obtained voter approval prior to the effective date of this chapter for the imposition of a retail transactions and use tax pursuant to Chapter 2 (commencing with Section 7285) of Part 1.7 of Division 2 of the Revenue and Taxation Code and the issuance of bonds payable from the proceeds of the tax, that authority may issue bonds, refunding bonds, and bond anticipation notes pursuant to this chapter to finance capital outlay expenditures as may be provided for in the expenditure plan adopted pursuant to subdivision (c) of Section 7285.5 of the Revenue and Taxation Code.

(3) If an authority established pursuant to Section 7285.5 of the Revenue and Taxation Code has obtained voter approval prior to the

effective date of this chapter only for the imposition of a retail transactions and use tax pursuant to Chapter 2 (commencing with Section 7285) of Part 1.7 of Division 2 of the Revenue and Taxation Code, that authority may seek authorization to issue bonds pursuant to this chapter payable from the proceeds of the tax to finance capital outlay expenditures as may be provided for in the expenditure plan adopted pursuant to subdivision (c) of Section 7285.5 of the Revenue and Taxation Code only if a resolution is adopted by two-thirds vote of the governing body of the authority and approved by a majority of the voters.

(b) The maximum indebtedness which may be outstanding at any one time shall be an amount equal to the sum of the principal of, and interest on, the bonds, but not to exceed the estimated proceeds of the tax, as determined by the plan. The amount of bonds outstanding at any one time does not include the amount of bonds, refunding bonds, or bond anticipation notes for which funds necessary for the payment thereof have been set aside for that purpose in a trust or escrow account.

(c) (1) A county authorized to levy, increase, or extend a transactions and use tax pursuant to Section 7285.5 of the Revenue and Taxation Code may issue bonds pursuant to this chapter, and for the purposes of this chapter shall be deemed an authority.

(2) The authorizations contained in this chapter shall apply to any tax levied, increased, or extended by a county pursuant to Section 7285.5 of the Revenue and Taxation Code on or after January 1, 2002.

SEC. 2. Section 7285.5 of the Revenue and Taxation Code is amended to read:

7285.5. (a) As an alternative to the procedure set forth in Section 7285, the board of supervisors of any county may levy, increase, or extend a transactions and use tax for specific purposes. The tax may be levied, increased, or extended at a rate of 0.25 percent, or a multiple thereof, for the purpose for which it is established, if all of the following requirements are met:

(1) The ordinance proposing that tax is approved by a two-thirds vote of all members of the board of supervisors and is subsequently approved by a two-thirds vote of the qualified voters of the county voting in an election on the issue.

(2) The transactions and use tax conforms to the Transactions and Use Tax Law Part 1.6 (commencing with Section 7251).

(3) The ordinance includes an expenditure plan describing the specific projects for which the revenues from the tax may be expended.

(b) A county shall be deemed to be an authority for purposes of Chapter 1 (commencing with Section 55800) of Part 3 of Division 2 of Title 5 of the Government Code.

SEC. 3. Nothing in Chapter 251 of the Statutes of 2001 shall be construed to affect the validity of a transaction and use tax being levied on the effective date of this act by an authority created pursuant to Section 7285.5 of the Revenue and Taxation Code as it read on December 31, 2000, and any tax so levied is hereby declared to be valid for all purposes.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to acknowledge the continuing validity of taxes levied by authorities created pursuant to Section 7285.5 of the Revenue and Taxation Code as it read prior to its amendment by Section 6 of Chapter 251 of the Statutes of 2001, and in order that counties having obtained voter approval of the taxes and bonding authority pursuant to Chapter 1(commencing with Section 55800) of Part 3 of Division 2 of Title 5 of the Government Code may issue bonds under those provisions, at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 505

An act to amend Section 13107 of, and to add Section 13107.3 to, the Elections Code, relating to elections.

[Approved by Governor October 11, 2007. Filed with Secretary of State October 11, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 13107 of the Elections Code is amended to read:

13107. (a) With the exception of candidates for Justice of the State Supreme Court or Court of Appeal, immediately under the name of each candidate, and not separated from the name by any line, may appear at the option of the candidate only one of the following designations:

(1) Words designating the elective city, county, district, state, or federal office which the candidate holds at the time of filing the nomination documents to which he or she was elected by vote of the people, or to which he or she was appointed, in the case of a superior court judge.

(2) The word "incumbent" if the candidate is a candidate for the same office which he or she holds at the time of filing the nomination papers,

and was elected to that office by a vote of the people, or, in the case of a superior court judge, was appointed to that office.

(3) No more than three words designating either the current principal professions, vocations, or occupations of the candidate, or the principal professions, vocations, or occupations of the candidate during the calendar year immediately preceding the filing of nomination documents. For purposes of this section, all California geographical names shall be considered to be one word. Hyphenated words that appear in any generally available standard reference dictionary, published in the United States at any time within the 10 calendar years immediately preceding the election for which the words are counted, shall be considered as one word. Each part of all other hyphenated words shall be counted as a separate word.

(4) The phrase "appointed incumbent" if the candidate holds an office other than a judicial office by virtue of appointment, and the candidate is a candidate for election to the same office, or, if the candidate is a candidate for election to the same office or to some other office, the word "appointed" and the title of the office. In either instance, the candidate may not use the unmodified word "incumbent" or any words designating the office unmodified by the word "appointed." However, the phrase "appointed incumbent" shall not be required of a candidate who seeks reelection to an office which he or she holds and to which he or she was appointed, as a nominated candidate, in lieu of an election, pursuant to Sections 5326 and 5328 of the Education Code or Section 7228, 7423, 7673, 10229, or 10515 of this code.

(b) Neither the Secretary of State nor any other elections official shall accept a designation of which any of the following would be true:

(1) It would mislead the voter.

(2) It would suggest an evaluation of a candidate, such as outstanding, leading, expert, virtuous, or eminent.

(3) It abbreviates the word "retired" or places it following any word or words which it modifies.

(4) It uses a word or prefix, such as "former" or "ex-," which means a prior status. The only exception is the use of the word "retired."

(5) It uses the name of any political party, whether or not it has qualified for the ballot.

(6) It uses a word or words referring to a racial, religious, or ethnic group.

(7) It refers to any activity prohibited by law.

(c) If, upon checking the nomination documents and the ballot designation worksheet described in Section 13107.3, the elections official finds the designation to be in violation of any of the restrictions set forth in this section, the elections official shall notify the candidate by

registered or certified mail return receipt requested, addressed to the mailing address provided on the candidate's ballot designation worksheet.

(1) The candidate shall, within three days, excluding Saturday, Sunday, and state holidays, from the date he or she receives notice by registered or certified mail, or from the date the candidate receives actual notice of the violation, whichever occurs first, appear before the elections official or, in the case of the Secretary of State, notify the Secretary of State by telephone, and provide a designation that complies with subdivision (a).

(2) In the event the candidate fails to provide a designation that complies with subdivision (a) within the three-day period specified in paragraph (1), no designation shall appear after the candidate's name.

(d) No designation given by a candidate shall be changed by the candidate after the final date for filing nomination documents, except as specifically requested by the elections official as specified in subdivision (c) or as provided in subdivision (e). The elections official shall maintain a copy of the ballot designation worksheet for each candidate that appears on the ballot in the county for the same period of time as applied to nomination documents pursuant to Section 17100.

(e) The designation shall remain the same for all purposes of both primary and general elections, unless the candidate, at least 98 days prior to the general election, requests in writing a different designation which the candidate is entitled to use at the time of the request.

(f) In all cases, the words so used shall be printed in 8-point roman uppercase and lowercase type except that, if the designation selected is so long that it would conflict with the space requirements of Sections 13207 and 13211, the elections official shall use a type size for the designation for each candidate for that office sufficiently smaller to meet these requirements.

(g) Whenever a foreign language translation of a candidate's designation is required under the Voting Rights Act of 1965 (42 U.S.C. Sec. 1971), as amended, to appear on the ballot in addition to the English language version, it shall be as short as possible, as consistent as is practicable with this section, and shall employ abbreviations and initials wherever possible in order to avoid undue length.

SEC. 2. Section 13107.3 is added to the Elections Code, to read:

13107.3. (a) Each candidate who submits a ballot designation pursuant to subdivision (a) of Section 13107 shall file, in addition to the nomination documents filed pursuant to Section 8020, a ballot designation worksheet that supports the use of that ballot designation by the candidate, in a format prescribed by the Secretary of State.

(b) The ballot designation worksheet shall be filed with the elections official at the same time that the candidate files his or her declaration of candidacy.

(c) In the event that a candidate fails to file a ballot designation worksheet in accordance with subdivision (a), no designation shall appear under the candidate's name on the ballot.

SEC. 3. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

CHAPTER 506

An act to amend Section 56.10 of the Civil Code, relating to medical information.

[Approved by Governor October 11, 2007. Filed with Secretary of State October 11, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 56.10 of the Civil Code is amended to read:

56.10. (a) No provider of health care, health care service plan, or contractor shall disclose medical information regarding a patient of the provider of health care or an enrollee or subscriber of a health care service plan without first obtaining an authorization, except as provided in subdivision (b) or (c).

(b) A provider of health care, a health care service plan, or a contractor shall disclose medical information if the disclosure is compelled by any of the following:

(1) By a court pursuant to an order of that court.

(2) By a board, commission, or administrative agency for purposes of adjudication pursuant to its lawful authority.

(3) By a party to a proceeding before a court or administrative agency pursuant to a subpoena, subpoena duces tecum, notice to appear served pursuant to Section 1987 of the Code of Civil Procedure, or any provision authorizing discovery in a proceeding before a court or administrative agency.

(4) By a board, commission, or administrative agency pursuant to an investigative subpoena issued under Article 2 (commencing with Section

11180) of Chapter 2 of Part 1 of Division 3 of Title 2 of the Government Code.

(5) By an arbitrator or arbitration panel, when arbitration is lawfully requested by either party, pursuant to a subpoena duces tecum issued under Section 1282.6 of the Code of Civil Procedure, or any other provision authorizing discovery in a proceeding before an arbitrator or arbitration panel.

(6) By a search warrant lawfully issued to a governmental law enforcement agency.

(7) By the patient or the patient's representative pursuant to Chapter 1 (commencing with Section 123100) of Part 1 of Division 106 of the Health and Safety Code.

(8) By a coroner, when requested in the course of an investigation by the coroner's office for the purpose of identifying the decedent or locating next of kin, or when investigating deaths that may involve public health concerns, organ or tissue donation, child abuse, elder abuse, suicides, poisonings, accidents, sudden infant deaths, suspicious deaths, unknown deaths, or criminal deaths, or when otherwise authorized by the decedent's representative. Medical information requested by the coroner under this paragraph shall be limited to information regarding the patient who is the decedent and who is the subject of the investigation and shall be disclosed to the coroner without delay upon request.

(9) When otherwise specifically required by law.

(c) A provider of health care or a health care service plan may disclose medical information as follows:

(1) The information may be disclosed to providers of health care, health care service plans, contractors, or other health care professionals or facilities for purposes of diagnosis or treatment of the patient. This includes, in an emergency situation, the communication of patient information by radio transmission or other means between emergency medical personnel at the scene of an emergency, or in an emergency medical transport vehicle, and emergency medical personnel at a health facility licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code.

(2) The information may be disclosed to an insurer, employer, health care service plan, hospital service plan, employee benefit plan, governmental authority, contractor, or any other person or entity responsible for paying for health care services rendered to the patient, to the extent necessary to allow responsibility for payment to be determined and payment to be made. If (A) the patient is, by reason of a comatose or other disabling medical condition, unable to consent to the disclosure of medical information and (B) no other arrangements have been made to pay for the health care services being rendered to the

patient, the information may be disclosed to a governmental authority to the extent necessary to determine the patient's eligibility for, and to obtain, payment under a governmental program for health care services provided to the patient. The information may also be disclosed to another provider of health care or health care service plan as necessary to assist the other provider or health care service plan in obtaining payment for health care services rendered by that provider of health care or health care service plan to the patient.

(3) The information may be disclosed to any person or entity that provides billing, claims management, medical data processing, or other administrative services for providers of health care or health care service plans or for any of the persons or entities specified in paragraph (2). However, no information so disclosed shall be further disclosed by the recipient in any way that would be violative of this part.

(4) The information may be disclosed to organized committees and agents of professional societies or of medical staffs of licensed hospitals, licensed health care service plans, professional standards review organizations, independent medical review organizations and their selected reviewers, utilization and quality control peer review organizations as established by Congress in Public Law 97-248 in 1982, contractors, or persons or organizations insuring, responsible for, or defending professional liability that a provider may incur, if the committees, agents, health care service plans, organizations, reviewers, contractors, or persons are engaged in reviewing the competence or qualifications of health care professionals or in reviewing health care services with respect to medical necessity, level of care, quality of care, or justification of charges.

(5) The information in the possession of any provider of health care or health care service plan may be reviewed by any private or public body responsible for licensing or accrediting the provider of health care or health care service plan. However, no patient-identifying medical information may be removed from the premises except as expressly permitted or required elsewhere by law, nor shall that information be further disclosed by the recipient in any way that would violate this part.

(6) The information may be disclosed to the county coroner in the course of an investigation by the coroner's office when requested for all purposes not included in paragraph (8) of subdivision (b).

(7) The information may be disclosed to public agencies, clinical investigators, including investigators conducting epidemiologic studies, health care research organizations, and accredited public or private nonprofit educational or health care institutions for bona fide research purposes. However, no information so disclosed shall be further disclosed

by the recipient in any way that would disclose the identity of any patient or be violative of this part.

(8) A provider of health care or health care service plan that has created medical information as a result of employment-related health care services to an employee conducted at the specific prior written request and expense of the employer may disclose to the employee's employer that part of the information that:

(A) Is relevant in a lawsuit, arbitration, grievance, or other claim or challenge to which the employer and the employee are parties and in which the patient has placed in issue his or her medical history, mental or physical condition, or treatment, provided that information may only be used or disclosed in connection with that proceeding.

(B) Describes functional limitations of the patient that may entitle the patient to leave from work for medical reasons or limit the patient's fitness to perform his or her present employment, provided that no statement of medical cause is included in the information disclosed.

(9) Unless the provider of health care or health care service plan is notified in writing of an agreement by the sponsor, insurer, or administrator to the contrary, the information may be disclosed to a sponsor, insurer, or administrator of a group or individual insured or uninsured plan or policy that the patient seeks coverage by or benefits from, if the information was created by the provider of health care or health care service plan as the result of services conducted at the specific prior written request and expense of the sponsor, insurer, or administrator for the purpose of evaluating the application for coverage or benefits.

(10) The information may be disclosed to a health care service plan by providers of health care that contract with the health care service plan and may be transferred among providers of health care that contract with the health care service plan, for the purpose of administering the health care service plan. Medical information may not otherwise be disclosed by a health care service plan except in accordance with the provisions of this part.

(11) Nothing in this part shall prevent the disclosure by a provider of health care or a health care service plan to an insurance institution, agent, or support organization, subject to Article 6.6 (commencing with Section 791) of Part 2 of Division 1 of the Insurance Code, of medical information if the insurance institution, agent, or support organization has complied with all requirements for obtaining the information pursuant to Article 6.6 (commencing with Section 791) of Part 2 of Division 1 of the Insurance Code.

(12) The information relevant to the patient's condition and care and treatment provided may be disclosed to a probate court investigator engaged in determining the need for an initial conservatorship or

continuation of an existent conservatorship, if the patient is unable to give informed consent, or to a probate court investigator, probation officer, or domestic relations investigator engaged in determining the need for an initial guardianship or continuation of an existent guardianship.

(13) The information may be disclosed to an organ procurement organization or a tissue bank processing the tissue of a decedent for transplantation into the body of another person, but only with respect to the donating decedent, for the purpose of aiding the transplant. For the purpose of this paragraph, the terms "tissue bank" and "tissue" have the same meaning as defined in Section 1635 of the Health and Safety Code.

(14) The information may be disclosed when the disclosure is otherwise specifically authorized by law, such as the voluntary reporting, either directly or indirectly, to the federal Food and Drug Administration of adverse events related to drug products or medical device problems.

(15) Basic information, including the patient's name, city of residence, age, sex, and general condition, may be disclosed to a state or federally recognized disaster relief organization for the purpose of responding to disaster welfare inquiries.

(16) The information may be disclosed to a third party for purposes of encoding, encrypting, or otherwise anonymizing data. However, no information so disclosed shall be further disclosed by the recipient in any way that would be violative of this part, including the unauthorized manipulation of coded or encrypted medical information that reveals individually identifiable medical information.

(17) For purposes of disease management programs and services as defined in Section 1399.901 of the Health and Safety Code, information may be disclosed as follows: (A) to any entity contracting with a health care service plan or the health care service plan's contractors to monitor or administer care of enrollees for a covered benefit, provided that the disease management services and care are authorized by a treating physician, or (B) to any disease management organization, as defined in Section 1399.900 of the Health and Safety Code, that complies fully with the physician authorization requirements of Section 1399.902 of the Health and Safety Code, provided that the health care service plan or its contractor provides or has provided a description of the disease management services to a treating physician or to the health care service plan's or contractor's network of physicians. Nothing in this paragraph shall be construed to require physician authorization for the care or treatment of the adherents of any well-recognized church or religious denomination who depend solely upon prayer or spiritual means for healing in the practice of the religion of that church or denomination.

(18) The information may be disclosed, as permitted by state and federal law or regulation, to a local health department for the purpose of preventing or controlling disease, injury, or disability, including, but not limited to, the reporting of disease, injury, vital events such as birth or death, and the conduct of public health surveillance, public health investigations, and public health interventions, as authorized or required by state or federal law or regulation.

(19) The information may be disclosed, consistent with applicable law and standards of ethical conduct, by a psychotherapist, as defined in Section 1010 of the Evidence Code, if the psychotherapist, in good faith, believes the disclosure is necessary to prevent or lessen a serious and imminent threat to the health or safety of a reasonably foreseeable victim or victims, and the disclosure is made to a person or persons reasonably able to prevent or lessen the threat, including the target of the threat.

(d) Except to the extent expressly authorized by the patient or enrollee or subscriber or as provided by subdivisions (b) and (c), no provider of health care, health care service plan, contractor, or corporation and its subsidiaries and affiliates shall intentionally share, sell, use for marketing, or otherwise use any medical information for any purpose not necessary to provide health care services to the patient.

(e) Except to the extent expressly authorized by the patient or enrollee or subscriber or as provided by subdivisions (b) and (c), no contractor or corporation and its subsidiaries and affiliates shall further disclose medical information regarding a patient of the provider of health care or an enrollee or subscriber of a health care service plan or insurer or self-insured employer received under this section to any person or entity that is not engaged in providing direct health care services to the patient or his or her provider of health care or health care service plan or insurer or self-insured employer.

SEC. 1.5. Section 56.10 of the Civil Code is amended to read:

56.10. (a) No provider of health care, health care service plan, or contractor shall disclose medical information regarding a patient of the provider of health care or an enrollee or subscriber of a health care service plan without first obtaining an authorization, except as provided in subdivision (b) or (c).

(b) A provider of health care, a health care service plan, or a contractor shall disclose medical information if the disclosure is compelled by any of the following:

(1) By a court pursuant to an order of that court.

(2) By a board, commission, or administrative agency for purposes of adjudication pursuant to its lawful authority.

(3) By a party to a proceeding before a court or administrative agency pursuant to a subpoena, subpoena duces tecum, notice to appear served pursuant to Section 1987 of the Code of Civil Procedure, or any provision authorizing discovery in a proceeding before a court or administrative agency.

(4) By a board, commission, or administrative agency pursuant to an investigative subpoena issued under Article 2 (commencing with Section 11180) of Chapter 2 of Part 1 of Division 3 of Title 2 of the Government Code.

(5) By an arbitrator or arbitration panel, when arbitration is lawfully requested by either party, pursuant to a subpoena duces tecum issued under Section 1282.6 of the Code of Civil Procedure, or any other provision authorizing discovery in a proceeding before an arbitrator or arbitration panel.

(6) By a search warrant lawfully issued to a governmental law enforcement agency.

(7) By the patient or the patient's representative pursuant to Chapter 1 (commencing with Section 123100) of Part 1 of Division 106 of the Health and Safety Code.

(8) By a coroner, when requested in the course of an investigation by the coroner's office for the purpose of identifying the decedent or locating next of kin, or when investigating deaths that may involve public health concerns, organ or tissue donation, child abuse, elder abuse, suicides, poisonings, accidents, sudden infant deaths, suspicious deaths, unknown deaths, or criminal deaths, or when otherwise authorized by the decedent's representative. Medical information requested by the coroner under this paragraph shall be limited to information regarding the patient who is the decedent and who is the subject of the investigation and shall be disclosed to the coroner without delay upon request.

(9) When otherwise specifically required by law.

(c) A provider of health care or a health care service plan may disclose medical information as follows:

(1) The information may be disclosed to providers of health care, health care service plans, contractors, or other health care professionals or facilities for purposes of diagnosis or treatment of the patient. This includes, in an emergency situation, the communication of patient information by radio transmission or other means between emergency medical personnel at the scene of an emergency, or in an emergency medical transport vehicle, and emergency medical personnel at a health facility licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code.

(2) The information may be disclosed to an insurer, employer, health care service plan, hospital service plan, employee benefit plan,

governmental authority, contractor, or any other person or entity responsible for paying for health care services rendered to the patient, to the extent necessary to allow responsibility for payment to be determined and payment to be made. If (A) the patient is, by reason of a comatose or other disabling medical condition, unable to consent to the disclosure of medical information and (B) no other arrangements have been made to pay for the health care services being rendered to the patient, the information may be disclosed to a governmental authority to the extent necessary to determine the patient's eligibility for, and to obtain, payment under a governmental program for health care services provided to the patient. The information may also be disclosed to another provider of health care or health care service plan as necessary to assist the other provider or health care service plan in obtaining payment for health care services rendered by that provider of health care or health care service plan to the patient.

(3) The information may be disclosed to any person or entity that provides billing, claims management, medical data processing, or other administrative services for providers of health care or health care service plans or for any of the persons or entities specified in paragraph (2). However, no information so disclosed shall be further disclosed by the recipient in any way that would be violative of this part.

(4) The information may be disclosed to organized committees and agents of professional societies or of medical staffs of licensed hospitals, licensed health care service plans, professional standards review organizations, independent medical review organizations and their selected reviewers, utilization and quality control peer review organizations as established by Congress in Public Law 97-248 in 1982, contractors, or persons or organizations insuring, responsible for, or defending professional liability that a provider may incur, if the committees, agents, health care service plans, organizations, reviewers, contractors, or persons are engaged in reviewing the competence or qualifications of health care professionals or in reviewing health care services with respect to medical necessity, level of care, quality of care, or justification of charges.

(5) The information in the possession of any provider of health care or health care service plan may be reviewed by any private or public body responsible for licensing or accrediting the provider of health care or health care service plan. However, no patient-identifying medical information may be removed from the premises except as expressly permitted or required elsewhere by law, nor shall that information be further disclosed by the recipient in any way that would violate this part.

(6) The information may be disclosed to the county coroner in the course of an investigation by the coroner's office when requested for all purposes not included in paragraph (8) of subdivision (b).

(7) The information may be disclosed to public agencies, clinical investigators, including investigators conducting epidemiologic studies, health care research organizations, and accredited public or private nonprofit educational or health care institutions for bona fide research purposes. However, no information so disclosed shall be further disclosed by the recipient in any way that would disclose the identity of any patient or be violative of this part.

(8) A provider of health care or health care service plan that has created medical information as a result of employment-related health care services to an employee conducted at the specific prior written request and expense of the employer may disclose to the employee's employer that part of the information that:

(A) Is relevant in a lawsuit, arbitration, grievance, or other claim or challenge to which the employer and the employee are parties and in which the patient has placed in issue his or her medical history, mental or physical condition, or treatment, provided that information may only be used or disclosed in connection with that proceeding.

(B) Describes functional limitations of the patient that may entitle the patient to leave from work for medical reasons or limit the patient's fitness to perform his or her present employment, provided that no statement of medical cause is included in the information disclosed.

(9) Unless the provider of health care or health care service plan is notified in writing of an agreement by the sponsor, insurer, or administrator to the contrary, the information may be disclosed to a sponsor, insurer, or administrator of a group or individual insured or uninsured plan or policy that the patient seeks coverage by or benefits from, if the information was created by the provider of health care or health care service plan as the result of services conducted at the specific prior written request and expense of the sponsor, insurer, or administrator for the purpose of evaluating the application for coverage or benefits.

(10) The information may be disclosed to a health care service plan by providers of health care that contract with the health care service plan and may be transferred among providers of health care that contract with the health care service plan, for the purpose of administering the health care service plan. Medical information may not otherwise be disclosed by a health care service plan except in accordance with the provisions of this part.

(11) Nothing in this part shall prevent the disclosure by a provider of health care or a health care service plan to an insurance institution, agent, or support organization, subject to Article 6.6 (commencing with Section

791) of Part 2 of Division 1 of the Insurance Code, of medical information if the insurance institution, agent, or support organization has complied with all requirements for obtaining the information pursuant to Article 6.6 (commencing with Section 791) of Part 2 of Division 1 of the Insurance Code.

(12) The information relevant to the patient's condition and care and treatment provided may be disclosed to a probate court investigator in the course of any investigation required or authorized in a conservatorship proceeding under the Guardianship-Conservatorship Law as defined in Section 1400 of the Probate Code, or to a probate court investigator, probation officer, or domestic relations investigator engaged in determining the need for an initial guardianship or continuation of an existent guardianship.

(13) The information may be disclosed to an organ procurement organization or a tissue bank processing the tissue of a decedent for transplantation into the body of another person, but only with respect to the donating decedent, for the purpose of aiding the transplant. For the purpose of this paragraph, the terms "tissue bank" and "tissue" have the same meaning as defined in Section 1635 of the Health and Safety Code.

(14) The information may be disclosed when the disclosure is otherwise specifically authorized by law, such as the voluntary reporting, either directly or indirectly, to the federal Food and Drug Administration of adverse events related to drug products or medical device problems.

(15) Basic information, including the patient's name, city of residence, age, sex, and general condition, may be disclosed to a state or federally recognized disaster relief organization for the purpose of responding to disaster welfare inquiries.

(16) The information may be disclosed to a third party for purposes of encoding, encrypting, or otherwise anonymizing data. However, no information so disclosed shall be further disclosed by the recipient in any way that would be violative of this part, including the unauthorized manipulation of coded or encrypted medical information that reveals individually identifiable medical information.

(17) For purposes of disease management programs and services as defined in Section 1399.901 of the Health and Safety Code, information may be disclosed as follows: (A) to any entity contracting with a health care service plan or the health care service plan's contractors to monitor or administer care of enrollees for a covered benefit, provided that the disease management services and care are authorized by a treating physician, or (B) to any disease management organization, as defined in Section 1399.900 of the Health and Safety Code, that complies fully with the physician authorization requirements of Section 1399.902 of the Health and Safety Code, provided that the health care service plan

or its contractor provides or has provided a description of the disease management services to a treating physician or to the health care service plan's or contractor's network of physicians. Nothing in this paragraph shall be construed to require physician authorization for the care or treatment of the adherents of any well-recognized church or religious denomination who depend solely upon prayer or spiritual means for healing in the practice of the religion of that church or denomination.

(18) The information may be disclosed, as permitted by state and federal law or regulation, to a local health department for the purpose of preventing or controlling disease, injury, or disability, including, but not limited to, the reporting of disease, injury, vital events such as birth or death, and the conduct of public health surveillance, public health investigations, and public health interventions, as authorized or required by state or federal law or regulation.

(19) The information may be disclosed, consistent with applicable law and standards of ethical conduct, by a psychotherapist, as defined in Section 1010 of the Evidence Code, if the psychotherapist, in good faith, believes the disclosure is necessary to prevent or lessen a serious and imminent threat to the health or safety of a reasonably foreseeable victim or victims, and the disclosure is made to a person or persons reasonably able to prevent or lessen the threat, including the target of the threat.

(d) Except to the extent expressly authorized by the patient or enrollee or subscriber or as provided by subdivisions (b) and (c), no provider of health care, health care service plan, contractor, or corporation and its subsidiaries and affiliates shall intentionally share, sell, use for marketing, or otherwise use any medical information for any purpose not necessary to provide health care services to the patient.

(e) Except to the extent expressly authorized by the patient or enrollee or subscriber or as provided by subdivisions (b) and (c), no contractor or corporation and its subsidiaries and affiliates shall further disclose medical information regarding a patient of the provider of health care or an enrollee or subscriber of a health care service plan or insurer or self-insured employer received under this section to any person or entity that is not engaged in providing direct health care services to the patient or his or her provider of health care or health care service plan or insurer or self-insured employer.

SEC. 1.7. Section 56.10 of the Civil Code is amended to read:

56.10. (a) No provider of health care, health care service plan, or contractor shall disclose medical information regarding a patient of the provider of health care or an enrollee or subscriber of a health care service plan without first obtaining an authorization, except as provided in subdivision (b) or (c).

(b) A provider of health care, a health care service plan, or a contractor shall disclose medical information if the disclosure is compelled by any of the following:

(1) By a court pursuant to an order of that court.

(2) By a board, commission, or administrative agency for purposes of adjudication pursuant to its lawful authority.

(3) By a party to a proceeding before a court or administrative agency pursuant to a subpoena, subpoena duces tecum, notice to appear served pursuant to Section 1987 of the Code of Civil Procedure, or any provision authorizing discovery in a proceeding before a court or administrative agency.

(4) By a board, commission, or administrative agency pursuant to an investigative subpoena issued under Article 2 (commencing with Section 11180) of Chapter 2 of Part 1 of Division 3 of Title 2 of the Government Code.

(5) By an arbitrator or arbitration panel, when arbitration is lawfully requested by either party, pursuant to a subpoena duces tecum issued under Section 1282.6 of the Code of Civil Procedure, or any other provision authorizing discovery in a proceeding before an arbitrator or arbitration panel.

(6) By a search warrant lawfully issued to a governmental law enforcement agency.

(7) By the patient or the patient's representative pursuant to Chapter 1 (commencing with Section 123100) of Part 1 of Division 106 of the Health and Safety Code.

(8) By a coroner, when requested in the course of an investigation by the coroner's office for the purpose of identifying the decedent or locating next of kin, or when investigating deaths that may involve public health concerns, organ or tissue donation, child abuse, elder abuse, suicides, poisonings, accidents, sudden infant deaths, suspicious deaths, unknown deaths, or criminal deaths, or when otherwise authorized by the decedent's representative. Medical information requested by the coroner under this paragraph shall be limited to information regarding the patient who is the decedent and who is the subject of the investigation and shall be disclosed to the coroner without delay upon request.

(9) When otherwise specifically required by law.

(c) A provider of health care or a health care service plan may disclose medical information as follows:

(1) The information may be disclosed to providers of health care, health care service plans, contractors, or other health care professionals or facilities for purposes of diagnosis or treatment of the patient. This includes, in an emergency situation, the communication of patient information by radio transmission or other means between emergency

medical personnel at the scene of an emergency, or in an emergency medical transport vehicle, and emergency medical personnel at a health facility licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code.

(2) The information may be disclosed to an insurer, employer, health care service plan, hospital service plan, employee benefit plan, governmental authority, contractor, or any other person or entity responsible for paying for health care services rendered to the patient, to the extent necessary to allow responsibility for payment to be determined and payment to be made. If (A) the patient is, by reason of a comatose or other disabling medical condition, unable to consent to the disclosure of medical information and (B) no other arrangements have been made to pay for the health care services being rendered to the patient, the information may be disclosed to a governmental authority to the extent necessary to determine the patient's eligibility for, and to obtain, payment under a governmental program for health care services provided to the patient. The information may also be disclosed to another provider of health care or health care service plan as necessary to assist the other provider or health care service plan in obtaining payment for health care services rendered by that provider of health care or health care service plan to the patient.

(3) The information may be disclosed to a person or entity that provides billing, claims management, medical data processing, or other administrative services for providers of health care or health care service plans or for any of the persons or entities specified in paragraph (2). However, no information so disclosed shall be further disclosed by the recipient in any way that would violate this part.

(4) The information may be disclosed to organized committees and agents of professional societies or of medical staffs of licensed hospitals, licensed health care service plans, professional standards review organizations, independent medical review organizations and their selected reviewers, utilization and quality control peer review organizations as established by Congress in Public Law 97-248 in 1982, contractors, or persons or organizations insuring, responsible for, or defending professional liability that a provider may incur, if the committees, agents, health care service plans, organizations, reviewers, contractors, or persons are engaged in reviewing the competence or qualifications of health care professionals or in reviewing health care services with respect to medical necessity, level of care, quality of care, or justification of charges.

(5) The information in the possession of a provider of health care or health care service plan may be reviewed by a private or public body responsible for licensing or accrediting the provider of health care or

health care service plan. However, no patient-identifying medical information may be removed from the premises except as expressly permitted or required elsewhere by law, nor shall that information be further disclosed by the recipient in any way that would violate this part.

(6) The information may be disclosed to the county coroner in the course of an investigation by the coroner's office when requested for all purposes not included in paragraph (8) of subdivision (b).

(7) The information may be disclosed to public agencies, clinical investigators, including investigators conducting epidemiologic studies, health care research organizations, and accredited public or private nonprofit educational or health care institutions for bona fide research purposes. However, no information so disclosed shall be further disclosed by the recipient in any way that would disclose the identity of a patient or violate this part.

(8) A provider of health care or health care service plan that has created medical information as a result of employment-related health care services to an employee conducted at the specific prior written request and expense of the employer may disclose to the employee's employer that part of the information that:

(A) Is relevant in a lawsuit, arbitration, grievance, or other claim or challenge to which the employer and the employee are parties and in which the patient has placed in issue his or her medical history, mental or physical condition, or treatment, provided that information may only be used or disclosed in connection with that proceeding.

(B) Describes functional limitations of the patient that may entitle the patient to leave from work for medical reasons or limit the patient's fitness to perform his or her present employment, provided that no statement of medical cause is included in the information disclosed.

(9) Unless the provider of health care or health care service plan is notified in writing of an agreement by the sponsor, insurer, or administrator to the contrary, the information may be disclosed to a sponsor, insurer, or administrator of a group or individual insured or uninsured plan or policy that the patient seeks coverage by or benefits from, if the information was created by the provider of health care or health care service plan as the result of services conducted at the specific prior written request and expense of the sponsor, insurer, or administrator for the purpose of evaluating the application for coverage or benefits.

(10) The information may be disclosed to a health care service plan by providers of health care that contract with the health care service plan and may be transferred among providers of health care that contract with the health care service plan, for the purpose of administering the health care service plan. Medical information may not otherwise be disclosed

by a health care service plan except in accordance with the provisions of this part.

(11) Nothing in this part shall prevent the disclosure by a provider of health care or a health care service plan to an insurance institution, agent, or support organization, subject to Article 6.6 (commencing with Section 791) of Part 2 of Division 1 of the Insurance Code, of medical information if the insurance institution, agent, or support organization has complied with all requirements for obtaining the information pursuant to Article 6.6 (commencing with Section 791) of Part 2 of Division 1 of the Insurance Code.

(12) The information relevant to the patient's condition and care and treatment provided may be disclosed to a probate court investigator engaged in determining the need for an initial conservatorship or continuation of an existent conservatorship, if the patient is unable to give informed consent, or to a probate court investigator, probation officer, or domestic relations investigator engaged in determining the need for an initial guardianship or continuation of an existent guardianship.

(13) The information may be disclosed to an organ procurement organization or a tissue bank processing the tissue of a decedent for transplantation into the body of another person, but only with respect to the donating decedent, for the purpose of aiding the transplant. For the purpose of this paragraph, the terms "tissue bank" and "tissue" have the same meaning as defined in Section 1635 of the Health and Safety Code.

(14) The information may be disclosed when the disclosure is otherwise specifically authorized by law, including, but not limited to, the voluntary reporting, either directly or indirectly, to the federal Food and Drug Administration of adverse events related to drug products or medical device problems.

(15) Basic information, including the patient's name, city of residence, age, sex, and general condition, may be disclosed to a state or federally recognized disaster relief organization for the purpose of responding to disaster welfare inquiries.

(16) The information may be disclosed to a third party for purposes of encoding, encrypting, or otherwise anonymizing data. However, no information so disclosed shall be further disclosed by the recipient in any way that would violate this part, including the unauthorized manipulation of coded or encrypted medical information that reveals individually identifiable medical information.

(17) For purposes of disease management programs and services as defined in Section 1399.901 of the Health and Safety Code, information may be disclosed as follows: (A) to an entity contracting with a health care service plan or the health care service plan's contractors to monitor

or administer care of enrollees for a covered benefit, if the disease management services and care are authorized by a treating physician, or (B) to a disease management organization, as defined in Section 1399.900 of the Health and Safety Code, that complies fully with the physician authorization requirements of Section 1399.902 of the Health and Safety Code, if the health care service plan or its contractor provides or has provided a description of the disease management services to a treating physician or to the health care service plan's or contractor's network of physicians. Nothing in this paragraph shall be construed to require physician authorization for the care or treatment of the adherents of a well-recognized church or religious denomination who depend solely upon prayer or spiritual means for healing in the practice of the religion of that church or denomination.

(18) The information may be disclosed, as permitted by state and federal law or regulation, to a local health department for the purpose of preventing or controlling disease, injury, or disability, including, but not limited to, the reporting of disease, injury, vital events, including, but not limited to, birth or death, and the conduct of public health surveillance, public health investigations, and public health interventions, as authorized or required by state or federal law or regulation.

(19) The information may be disclosed, consistent with applicable law and standards of ethical conduct, by a psychotherapist, as defined in Section 1010 of the Evidence Code, if the psychotherapist, in good faith, believes the disclosure is necessary to prevent or lessen a serious and imminent threat to the health or safety of a reasonably foreseeable victim or victims, and the disclosure is made to a person or persons reasonably able to prevent or lessen the threat, including the target of the threat.

(20) The information may be disclosed as described in Section 56.103.

(d) Except to the extent expressly authorized by the patient or enrollee or subscriber or as provided by subdivisions (b) and (c), no provider of health care, health care service plan, contractor, or corporation and its subsidiaries and affiliates shall intentionally share, sell, use for marketing, or otherwise use any medical information for any purpose not necessary to provide health care services to the patient.

(e) Except to the extent expressly authorized by the patient or enrollee or subscriber or as provided by subdivisions (b) and (c), no contractor or corporation and its subsidiaries and affiliates shall further disclose medical information regarding a patient of the provider of health care or an enrollee or subscriber of a health care service plan or insurer or self-insured employer received under this section to any person or entity that is not engaged in providing direct health care services to the patient

or his or her provider of health care or health care service plan or insurer or self-insured employer.

SEC. 1.9. Section 56.10 of the Civil Code is amended to read:

56.10. (a) No provider of health care, health care service plan, or contractor shall disclose medical information regarding a patient of the provider of health care or an enrollee or subscriber of a health care service plan without first obtaining an authorization, except as provided in subdivision (b) or (c).

(b) A provider of health care, a health care service plan, or a contractor shall disclose medical information if the disclosure is compelled by any of the following:

(1) By a court pursuant to an order of that court.

(2) By a board, commission, or administrative agency for purposes of adjudication pursuant to its lawful authority.

(3) By a party to a proceeding before a court or administrative agency pursuant to a subpoena, subpoena duces tecum, notice to appear served pursuant to Section 1987 of the Code of Civil Procedure, or any provision authorizing discovery in a proceeding before a court or administrative agency.

(4) By a board, commission, or administrative agency pursuant to an investigative subpoena issued under Article 2 (commencing with Section 11180) of Chapter 2 of Part 1 of Division 3 of Title 2 of the Government Code.

(5) By an arbitrator or arbitration panel, when arbitration is lawfully requested by either party, pursuant to a subpoena duces tecum issued under Section 1282.6 of the Code of Civil Procedure, or any other provision authorizing discovery in a proceeding before an arbitrator or arbitration panel.

(6) By a search warrant lawfully issued to a governmental law enforcement agency.

(7) By the patient or the patient's representative pursuant to Chapter 1 (commencing with Section 123100) of Part 1 of Division 106 of the Health and Safety Code.

(8) By a coroner, when requested in the course of an investigation by the coroner's office for the purpose of identifying the decedent or locating next of kin, or when investigating deaths that may involve public health concerns, organ or tissue donation, child abuse, elder abuse, suicides, poisonings, accidents, sudden infant deaths, suspicious deaths, unknown deaths, or criminal deaths, or when otherwise authorized by the decedent's representative. Medical information requested by the coroner under this paragraph shall be limited to information regarding the patient who is the decedent and who is the subject of the investigation and shall be disclosed to the coroner without delay upon request.

(9) When otherwise specifically required by law.

(c) A provider of health care or a health care service plan may disclose medical information as follows:

(1) The information may be disclosed to providers of health care, health care service plans, contractors, or other health care professionals or facilities for purposes of diagnosis or treatment of the patient. This includes, in an emergency situation, the communication of patient information by radio transmission or other means between emergency medical personnel at the scene of an emergency, or in an emergency medical transport vehicle, and emergency medical personnel at a health facility licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code.

(2) The information may be disclosed to an insurer, employer, health care service plan, hospital service plan, employee benefit plan, governmental authority, contractor, or any other person or entity responsible for paying for health care services rendered to the patient, to the extent necessary to allow responsibility for payment to be determined and payment to be made. If (A) the patient is, by reason of a comatose or other disabling medical condition, unable to consent to the disclosure of medical information and (B) no other arrangements have been made to pay for the health care services being rendered to the patient, the information may be disclosed to a governmental authority to the extent necessary to determine the patient's eligibility for, and to obtain, payment under a governmental program for health care services provided to the patient. The information may also be disclosed to another provider of health care or health care service plan as necessary to assist the other provider or health care service plan in obtaining payment for health care services rendered by that provider of health care or health care service plan to the patient.

(3) The information may be disclosed to a person or entity that provides billing, claims management, medical data processing, or other administrative services for providers of health care or health care service plans or for any of the persons or entities specified in paragraph (2). However, no information so disclosed shall be further disclosed by the recipient in any way that would violate this part.

(4) The information may be disclosed to organized committees and agents of professional societies or of medical staffs of licensed hospitals, licensed health care service plans, professional standards review organizations, independent medical review organizations and their selected reviewers, utilization and quality control peer review organizations as established by Congress in Public Law 97-248 in 1982, contractors, or persons or organizations insuring, responsible for, or defending professional liability that a provider may incur, if the

committees, agents, health care service plans, organizations, reviewers, contractors, or persons are engaged in reviewing the competence or qualifications of health care professionals or in reviewing health care services with respect to medical necessity, level of care, quality of care, or justification of charges.

(5) The information in the possession of a provider of health care or health care service plan may be reviewed by a private or public body responsible for licensing or accrediting the provider of health care or health care service plan. However, no patient-identifying medical information may be removed from the premises except as expressly permitted or required elsewhere by law, nor shall that information be further disclosed by the recipient in any way that would violate this part.

(6) The information may be disclosed to the county coroner in the course of an investigation by the coroner's office when requested for all purposes not included in paragraph (8) of subdivision (b).

(7) The information may be disclosed to public agencies, clinical investigators, including investigators conducting epidemiologic studies, health care research organizations, and accredited public or private nonprofit educational or health care institutions for bona fide research purposes. However, no information so disclosed shall be further disclosed by the recipient in any way that would disclose the identity of a patient or violate this part.

(8) A provider of health care or health care service plan that has created medical information as a result of employment-related health care services to an employee conducted at the specific prior written request and expense of the employer may disclose to the employee's employer that part of the information that:

(A) Is relevant in a lawsuit, arbitration, grievance, or other claim or challenge to which the employer and the employee are parties and in which the patient has placed in issue his or her medical history, mental or physical condition, or treatment, provided that information may only be used or disclosed in connection with that proceeding.

(B) Describes functional limitations of the patient that may entitle the patient to leave from work for medical reasons or limit the patient's fitness to perform his or her present employment, provided that no statement of medical cause is included in the information disclosed.

(9) Unless the provider of health care or health care service plan is notified in writing of an agreement by the sponsor, insurer, or administrator to the contrary, the information may be disclosed to a sponsor, insurer, or administrator of a group or individual insured or uninsured plan or policy that the patient seeks coverage by or benefits from, if the information was created by the provider of health care or health care service plan as the result of services conducted at the specific

prior written request and expense of the sponsor, insurer, or administrator for the purpose of evaluating the application for coverage or benefits.

(10) The information may be disclosed to a health care service plan by providers of health care that contract with the health care service plan and may be transferred among providers of health care that contract with the health care service plan, for the purpose of administering the health care service plan. Medical information may not otherwise be disclosed by a health care service plan except in accordance with the provisions of this part.

(11) Nothing in this part shall prevent the disclosure by a provider of health care or a health care service plan to an insurance institution, agent, or support organization, subject to Article 6.6 (commencing with Section 791) of Part 2 of Division 1 of the Insurance Code, of medical information if the insurance institution, agent, or support organization has complied with all requirements for obtaining the information pursuant to Article 6.6 (commencing with Section 791) of Part 2 of Division 1 of the Insurance Code.

(12) The information relevant to the patient's condition and care and treatment provided may be disclosed to a probate court investigator in the course of any investigation required or authorized in a conservatorship proceeding under the Guardianship-Conservatorship Law as defined in Section 1400 of the Probate Code, or to a probate court investigator, probation officer, or domestic relations investigator engaged in determining the need for an initial guardianship or continuation of an existent guardianship.

(13) The information may be disclosed to an organ procurement organization or a tissue bank processing the tissue of a decedent for transplantation into the body of another person, but only with respect to the donating decedent, for the purpose of aiding the transplant. For the purpose of this paragraph, the terms "tissue bank" and "tissue" have the same meaning as defined in Section 1635 of the Health and Safety Code.

(14) The information may be disclosed when the disclosure is otherwise specifically authorized by law, including, but not limited to, the voluntary reporting, either directly or indirectly, to the federal Food and Drug Administration of adverse events related to drug products or medical device problems.

(15) Basic information, including the patient's name, city of residence, age, sex, and general condition, may be disclosed to a state or federally recognized disaster relief organization for the purpose of responding to disaster welfare inquiries.

(16) The information may be disclosed to a third party for purposes of encoding, encrypting, or otherwise anonymizing data. However, no information so disclosed shall be further disclosed by the recipient in

any way that would violate this part, including the unauthorized manipulation of coded or encrypted medical information that reveals individually identifiable medical information.

(17) For purposes of disease management programs and services as defined in Section 1399.901 of the Health and Safety Code, information may be disclosed as follows: (A) to an entity contracting with a health care service plan or the health care service plan's contractors to monitor or administer care of enrollees for a covered benefit, if the disease management services and care are authorized by a treating physician, or (B) to a disease management organization, as defined in Section 1399.900 of the Health and Safety Code, that complies fully with the physician authorization requirements of Section 1399.902 of the Health and Safety Code, if the health care service plan or its contractor provides or has provided a description of the disease management services to a treating physician or to the health care service plan's or contractor's network of physicians. Nothing in this paragraph shall be construed to require physician authorization for the care or treatment of the adherents of a well-recognized church or religious denomination who depend solely upon prayer or spiritual means for healing in the practice of the religion of that church or denomination.

(18) The information may be disclosed, as permitted by state and federal law or regulation, to a local health department for the purpose of preventing or controlling disease, injury, or disability, including, but not limited to, the reporting of disease, injury, vital events, including, but not limited to, birth or death, and the conduct of public health surveillance, public health investigations, and public health interventions, as authorized or required by state or federal law or regulation.

(19) The information may be disclosed, consistent with applicable law and standards of ethical conduct, by a psychotherapist, as defined in Section 1010 of the Evidence Code, if the psychotherapist, in good faith, believes the disclosure is necessary to prevent or lessen a serious and imminent threat to the health or safety of a reasonably foreseeable victim or victims, and the disclosure is made to a person or persons reasonably able to prevent or lessen the threat, including the target of the threat.

(20) The information may be disclosed as described in Section 56.103.

(d) Except to the extent expressly authorized by the patient or enrollee or subscriber or as provided by subdivisions (b) and (c), no provider of health care, health care service plan, contractor, or corporation and its subsidiaries and affiliates shall intentionally share, sell, use for marketing, or otherwise use any medical information for any purpose not necessary to provide health care services to the patient.

(e) Except to the extent expressly authorized by the patient or enrollee or subscriber or as provided by subdivisions (b) and (c), no contractor or corporation and its subsidiaries and affiliates shall further disclose medical information regarding a patient of the provider of health care or an enrollee or subscriber of a health care service plan or insurer or self-insured employer received under this section to any person or entity that is not engaged in providing direct health care services to the patient or his or her provider of health care or health care service plan or insurer or self-insured employer.

SEC. 2. (a) Section 1.5 of this bill incorporates amendments to Section 56.10 of the Civil Code proposed by both this bill and AB 1727. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2008, (2) each bill amends Section 56.10 of the Civil Code, (3) AB 1687 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 1727, in which case Sections 1, 1.7, and 1.9 of this bill shall not become operative.

(b) Section 1.7 of this bill incorporates amendments to Section 56.10 of the Civil Code proposed by both this bill and AB 1687. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2008, (2) each bill amends Section 56.10 of the Civil Code, (3) AB 1727 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 1687 in which case Sections 1, 1.5, and 1.9 of this bill shall not become operative.

(c) Section 1.9 of this bill incorporates amendments to Section 56.10 of the Civil Code proposed by this bill, AB 1687, and AB 1727. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 2008, (2) all three bills amend Section 56.10 of the Civil Code, and (3) this bill is enacted after AB 1687 and AB 1727, in which case Sections 1, 1.5, and 1.7 of this bill shall not become operative.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CHAPTER 507

An act to amend Sections 2290.5 and 3041 of the Business and Professions Code, relating to healing arts.

[Approved by Governor October 11, 2007. Filed with Secretary of State October 11, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 2290.5 of the Business and Professions Code is amended to read:

2290.5. (a) (1) For the purposes of this section, "telemedicine" means the practice of health care delivery, diagnosis, consultation, treatment, transfer of medical data, and education using interactive audio, video, or data communications. Neither a telephone conversation nor an electronic mail message between a health care practitioner and patient constitutes "telemedicine" for purposes of this section.

(2) For purposes of this section, "interactive" means an audio, video, or data communication involving a real time (synchronous) or near real time (asynchronous) two-way transfer of medical data and information.

(b) For the purposes of this section, "health care practitioner" has the same meaning as "licentiate" as defined in paragraph (2) of subdivision (a) of Section 805 and also includes a person licensed as an optometrist pursuant to Chapter 7 (commencing with Section 3000).

(c) Prior to the delivery of health care via telemedicine, the health care practitioner who has ultimate authority over the care or primary diagnosis of the patient shall obtain verbal and written informed consent from the patient or the patient's legal representative. The informed consent procedure shall ensure that at least all of the following information is given to the patient or the patient's legal representative verbally and in writing:

(1) The patient or the patient's legal representative retains the option to withhold or withdraw consent at any time without affecting the right to future care or treatment nor risking the loss or withdrawal of any program benefits to which the patient or the patient's legal representative would otherwise be entitled.

(2) A description of the potential risks, consequences, and benefits of telemedicine.

(3) All existing confidentiality protections apply.

(4) All existing laws regarding patient access to medical information and copies of medical records apply.

(5) Dissemination of any patient identifiable images or information from the telemedicine interaction to researchers or other entities shall not occur without the consent of the patient.

(d) A patient or the patient's legal representative shall sign a written statement prior to the delivery of health care via telemedicine, indicating that the patient or the patient's legal representative understands the written information provided pursuant to subdivision (a), and that this information has been discussed with the health care practitioner, or his or her designee.

(e) The written consent statement signed by the patient or the patient's legal representative shall become part of the patient's medical record.

(f) The failure of a health care practitioner to comply with this section shall constitute unprofessional conduct. Section 2314 shall not apply to this section.

(g) All existing laws regarding surrogate decisionmaking shall apply. For purposes of this section, "surrogate decisionmaking" means any decision made in the practice of medicine by a parent or legal representative for a minor or an incapacitated or incompetent individual.

(h) Except as provided in paragraph (3) of subdivision (c), this section shall not apply when the patient is not directly involved in the telemedicine interaction, for example when one health care practitioner consults with another health care practitioner.

(i) This section shall not apply in an emergency situation in which a patient is unable to give informed consent and the representative of that patient is not available in a timely manner.

(j) This section shall not apply to a patient under the jurisdiction of the Department of Corrections or any other correctional facility.

(k) This section shall not be construed to alter the scope of practice of any health care provider or authorize the delivery of health care services in a setting, or in a manner, not otherwise authorized by law.

SEC. 2. Section 3041 of the Business and Professions Code is amended to read:

3041. (a) The practice of optometry includes the prevention and diagnosis of disorders and dysfunctions of the visual system, and the treatment and management of certain disorders and dysfunctions of the visual system, as well as the provision of rehabilitative optometric services, and is the doing of any or all of the following:

(1) The examination of the human eye or eyes, or its or their appendages, and the analysis of the human vision system, either subjectively or objectively.

(2) The determination of the powers or range of human vision and the accommodative and refractive states of the human eye or eyes, including the scope of its or their functions and general condition.

(3) The prescribing or directing the use of, or using, any optical device in connection with ocular exercises, visual training, vision training, or orthoptics.

(4) The prescribing of contact and spectacle lenses for, or the fitting or adaptation of contact and spectacle lenses to, the human eye, including lenses which may be classified as drugs or devices by any law of the United States or of this state.

(5) The use of topical pharmaceutical agents for the sole purpose of the examination of the human eye or eyes for any disease or pathological condition. The topical pharmaceutical agents shall include mydriatics, cycloplegics, anesthetics, and agents for the reversal of mydriasis.

(b) (1) An optometrist who is certified to use therapeutic pharmaceutical agents, pursuant to Section 3041.3, may also diagnose and exclusively treat the human eye or eyes, or any of its appendages, for all of the following conditions:

(A) Through medical treatment, infections of the anterior segment and adnexa, excluding the lacrimal gland, the lacrimal drainage system and the sclera. Nothing in this section shall authorize any optometrist to treat a person with AIDS for ocular infections.

(B) Ocular allergies of the anterior segment and adnexa.

(C) Ocular inflammation, nonsurgical in cause, limited to inflammation resulting from traumatic iritis, peripheral corneal inflammatory keratitis, episcleritis, and unilateral nonrecurrent nongranulomatous idiopathic iritis in patients over 18 years of age. Unilateral nongranulomatous idiopathic iritis recurring within one year of the initial occurrence shall be referred to an ophthalmologist. An optometrist shall consult with an ophthalmologist if a patient has a recurrent case of episcleritis within one year of the initial occurrence. An optometrist shall consult with an ophthalmologist if a patient has a recurrent case of peripheral corneal inflammatory keratitis within one year of the initial occurrence.

(D) Traumatic or recurrent conjunctival or corneal abrasions and erosions.

(E) Corneal surface disease and dry eyes.

(F) Ocular pain, not related to surgery, associated with conditions optometrists are authorized to treat.

(G) Pursuant to subdivision (f), primary open-angle glaucoma in patients over 18 years of age.

(2) For purposes of this section, “treat” means the use of therapeutic pharmaceutical agents, as described in subdivision (c), and the procedures described in subdivision (e).

(c) In diagnosing and treating the conditions listed in subdivision (b), an optometrist certified to use therapeutic pharmaceutical agents pursuant

to Section 3041.3, may use all of the following therapeutic pharmaceutical agents exclusively:

(1) All of the topical pharmaceutical agents listed in paragraph (5) of subdivision (a) as well as topical miotics for diagnostic purposes.

(2) Topical lubricants.

(3) Topical antiallergy agents. In using topical steroid medication for the treatment of ocular allergies, an optometrist shall do the following:

(A) Consult with an ophthalmologist if the patient's condition worsens 72 hours after diagnosis.

(B) Consult with an ophthalmologist if the inflammation is still present three weeks after diagnosis.

(C) Refer the patient to an ophthalmologist if the patient is still on the medication six weeks after diagnosis.

(D) Refer the patient to an ophthalmologist if the patient's condition recurs within three months.

(4) Topical antiinflammatories. In using topical steroid medication for:

(A) Unilateral nonrecurrent nongranulomatous idiopathic iritis or episcleritis, an optometrist shall consult with an ophthalmologist if the patient's condition worsens 72 hours after the diagnosis, or if the patient's condition has not resolved three weeks after diagnosis. If the patient is still receiving medication for these conditions six weeks after diagnosis, the optometrist shall refer the patient to an ophthalmologist.

(B) Peripheral corneal inflammatory keratitis, excluding Moorens and Terriens diseases, an optometrist shall consult with an ophthalmologist if the patient's condition worsens 48 hours after diagnosis. If the patient is still receiving the medication two weeks after diagnosis, the optometrist shall refer the patient to an ophthalmologist.

(C) Traumatic iritis, an optometrist shall consult with an ophthalmologist if the patient's condition worsens 72 hours after diagnosis and shall refer the patient to an ophthalmologist if the patient's condition has not resolved one week after diagnosis.

(5) Topical antibiotic agents.

(6) Topical hyperosmotics.

(7) Topical antiglaucoma agents pursuant to the certification process defined in subdivision (f).

(A) The optometrist shall not use more than two concurrent topical medications in treating the patient for primary open-angle glaucoma. A single combination medication that contains two pharmacological agents shall be considered as two medications.

(B) The optometrist shall refer the patient to an ophthalmologist if requested by the patient, if treatment goals are not achieved with the use

of two topical medications or if indications of narrow-angle or secondary glaucoma develop.

(C) If the glaucoma patient also has diabetes, the optometrist shall consult in writing with the physician treating the patient's diabetes in developing the glaucoma treatment plan and shall notify the physician in writing of any changes in the patient's glaucoma medication. The physician shall provide written confirmation of those consultations and notifications.

(8) Nonprescription medications used for the rational treatment of an ocular disorder.

(9) Oral antihistamines. In using oral antihistamines for the treatment of ocular allergies, the optometrist shall refer the patient to an ophthalmologist if the patient's condition has not resolved two weeks after diagnosis.

(10) Prescription oral nonsteroidal antiinflammatory agents. The agents shall be limited to three days' use. If the patient's condition has not resolved three days after diagnosis, the optometrist shall refer the patient to an ophthalmologist.

(11) The following oral antibiotics for medical treatment as set forth in subparagraph (A) of paragraph (1) of subdivision (b): tetracyclines, dicloxacillin, amoxicillin, amoxicillin with clavulanate, erythromycin, clarythromycin, cephalexin, cephadroxil, cefaclor, trimethoprim with sulfamethoxazole, ciprofloxacin, and azithromycin. The use of azithromycin shall be limited to the treatment of eyelid infections and chlamydial disease manifesting in the eyes.

(A) If the patient has been diagnosed with a central corneal ulcer and the condition has not improved 24 hours after diagnosis, the optometrist shall consult with an ophthalmologist. If the central corneal ulcer has not improved 48 hours after diagnosis, the optometrist shall refer the patient to an ophthalmologist. If the patient is still receiving antibiotics 10 days after diagnosis, the optometrist shall refer the patient to an ophthalmologist.

(B) If the patient has been diagnosed with preseptal cellulitis or dacryocystitis and the condition has not improved 72 hours after diagnosis, the optometrist shall refer the patient to an ophthalmologist. If a patient with preseptal cellulitis or dacryocystitis is still receiving oral antibiotics 10 days after diagnosis, the optometrist shall refer the patient to an ophthalmologist.

(C) If the patient has been diagnosed with blepharitis and the patient's condition does not improve after six weeks of treatment, the optometrist shall consult with an ophthalmologist.

(D) For the medical treatment of all other medical conditions as set forth in subparagraph (A) of paragraph (1) of subdivision (b), if the

patient's condition worsens 72 hours after diagnosis, the optometrist shall consult with an ophthalmologist. If the patient's condition has not resolved 10 days after diagnosis, the optometrist shall refer the patient to an ophthalmologist.

(12) Topical antiviral medication and oral acyclovir for the medical treatment of the following: herpes simplex viral keratitis, herpes simplex viral conjunctivitis, and periocular herpes simplex viral dermatitis; and varicella zoster viral keratitis, varicella zoster viral conjunctivitis, and periocular varicella zoster viral dermatitis.

(A) If the patient has been diagnosed with herpes simplex keratitis or varicella zoster viral keratitis and the patient's condition has not improved seven days after diagnosis, the optometrist shall refer the patient to an ophthalmologist. If a patient's condition has not resolved three weeks after diagnosis, the optometrist shall refer the patient to an ophthalmologist.

(B) If the patient has been diagnosed with herpes simplex viral conjunctivitis, herpes simplex viral dermatitis, varicella zoster viral conjunctivitis, or varicella zoster viral dermatitis, and if the patient's condition worsens seven days after diagnosis, the optometrist shall consult with an ophthalmologist. If the patient's condition has not resolved three weeks after diagnosis, the optometrist shall refer the patient to an ophthalmologist.

(C) In all cases, the use of topical antiviral medication shall be limited to three weeks, and the use of oral acyclovir shall be limited to 10 days.

(13) Oral analgesics that are not controlled substances.

(14) Codeine with compounds and hydrocodone with compounds as listed in the California Uniform Controlled Substances Act (Section 11000 of the Health and Safety Code et seq.) and the United States Uniform Controlled Substances Act (21 U.S.C. Sec. 801 et seq.). The use of these agents shall be limited to three days, with a referral to an ophthalmologist if the pain persists.

(d) In any case where this chapter requires that an optometrist consult with an ophthalmologist, the optometrist shall maintain a written record in the patient's file of the information provided to the ophthalmologist, the ophthalmologist's response and any other relevant information. Upon the consulting ophthalmologist's request, the optometrist shall furnish a copy of the record to the ophthalmologist.

(e) An optometrist who is certified to use therapeutic pharmaceutical agents pursuant to Section 3041.3 may also perform all of the following:

(1) Mechanical epilation.

(2) Ordering of smears, cultures, sensitivities, complete blood count, mycobacterial culture, acid fast stain, and urinalysis.

(3) Punctal occlusion by plugs, excluding laser, cautery, diathermy, cryotherapy, or other means constituting surgery as defined in this chapter.

(4) The prescription of therapeutic contact lenses.

(5) Removal of foreign bodies from the cornea, eyelid, and conjunctiva. Corneal foreign bodies shall be nonperforating, be no deeper than the anterior stroma, and require no surgical repair upon removal. Within the central three millimeters of the cornea, the use of sharp instruments is prohibited.

(6) For patients over 12 years of age, lacrimal irrigation and dilation, excluding probing of the nasal lacrimal tract. The State Board of Optometry shall certify an optometrist to perform this procedure after completing 10 of the procedures under the supervision of an ophthalmologist as confirmed by the ophthalmologist.

(7) No injections other than the use of an auto-injector to counter anaphylaxis.

(f) The State Board of Optometry shall grant a certificate to an optometrist certified pursuant to Section 3041.3 for the treatment of primary open-angle glaucoma in patients over 18 years of age only after the optometrist meets the following requirements:

(1) Satisfactory completion of a didactic course of not less than 24 hours in the diagnosis, pharmacological and other treatment and management of glaucoma. The 24-hour glaucoma curriculum shall be developed by an accredited California school of optometry. Any applicant who graduated from an accredited California school of optometry on or after May 1, 2000, shall be exempt from the 24-hour didactic course requirement contained in this paragraph.

(2) After completion of the requirement contained in paragraph (1), collaborative treatment of 50 glaucoma patients for a period of two years for each patient under the following terms:

(A) After the optometrist makes a provisional diagnosis of glaucoma, the optometrist and the patient shall identify a collaborating ophthalmologist.

(B) The optometrist shall develop a treatment plan that considers for each patient target intraocular pressures, optic nerve appearance and visual field testing for each eye, and an initial proposal for therapy.

(C) The optometrist shall transmit relevant information from the examination and history taken of the patient along with the treatment plan to the collaborating ophthalmologist. The collaborating ophthalmologist shall confirm or refute the glaucoma diagnosis within 30 days. To accomplish this, the collaborating ophthalmologist shall perform a physical examination of the patient.

(D) Once the collaborating ophthalmologist confirms the diagnosis and approves the treatment plan in writing, the optometrist may begin treatment.

(E) The optometrist shall use no more than two concurrent topical medications in treating the patient for glaucoma. A single combination medication that contains two pharmacologic agents shall be considered as two medications. The optometrist shall notify the collaborating ophthalmologist in writing if there is any change in the medication used to treat the patient for glaucoma.

(F) Annually after commencing treatment, the optometrist shall provide a written report to the collaborating ophthalmologist about the achievement of goals contained in the treatment plan. The collaborating ophthalmologist shall acknowledge receipt of the report in writing to the optometrist within 10 days.

(G) The optometrist shall refer the patient to an ophthalmologist if requested by the patient, if treatment goals are not achieved with the use of two topical medications, or if indications of secondary glaucoma develop. At his or her discretion, the collaborating ophthalmologist may periodically examine the patient.

(H) If the glaucoma patient also has diabetes, the optometrist shall consult in writing with the physician treating the patient's diabetes in preparation of the treatment plan and shall notify the physician in writing if there is any change in the patient's glaucoma medication. The physician shall provide written confirmation of the consultations and notifications.

(I) The optometrist shall provide the following information to the patient in writing: nature of the working or suspected diagnosis, consultation evaluation by a collaborating ophthalmologist, treatment plan goals, expected followup care, and a description of the referral requirements. The document containing the information shall be signed and dated by both the optometrist and the ophthalmologist and maintained in their files.

(3) When the requirements contained in paragraphs (1) and (2) have been satisfied, the optometrist shall submit proof of completion to the State Board of Optometry and apply for a certificate to treat primary open-angle glaucoma. That proof shall include corroborating information from the collaborating ophthalmologist. If the ophthalmologist fails to respond within 60 days of a request for information from the State Board of Optometry, the board may act on the optometrist's application without that corroborating information.

(4) After an optometrist has treated a total of 50 patients for a period of two years each and has received certification from the State Board of Optometry, the optometrist may treat the original 50 collaboratively treated patients independently, with the written consent of the patient.

However, any glaucoma patients seen by the optometrist before the two-year period has expired for each of the 50 patients shall be treated under the collaboration protocols described in this section.

(5) For purposes of this subdivision, "collaborating ophthalmologist" means a physician and surgeon who is licensed by the state and in the active practice of ophthalmology in this state.

(g) Notwithstanding any other provision of law, an optometrist shall not treat children under one year of age with therapeutic pharmaceutical agents.

(h) Any dispensing of a therapeutic pharmaceutical agent by an optometrist shall be without charge.

(i) Notwithstanding any other provision of law, the practice of optometry does not include performing surgery. "Surgery" means any procedure in which human tissue is cut, altered, or otherwise infiltrated by mechanical or laser means in a manner not specifically authorized by this chapter. Nothing in the act amending this section shall limit an optometrist's authority, as it existed prior to the effective date of the act amending this section, to utilize diagnostic laser and ultrasound technology.

(j) All collaborations, consultations, and referrals made by an optometrist pursuant to this section shall be to an ophthalmologist located geographically appropriate to the patient.

(k) An optometrist licensed under this chapter is subject to the provisions of Section 2290.5 for purposes of practicing telemedicine.

CHAPTER 508

An act to amend Section 35763 of the Education Code, to amend Sections 300, 335.5, 353.5, 2150, 2166, 2166.5, 2166.7, 2191, 2300, 3000, 3001, 3002, 3003, 3004, 3005, 3006, 3007, 3007.5, 3007.7, 3008, 3009, 3011, 3012, 3013, 3014, 3015, 3016, 3017, 3018, 3019, 3020, 3021, 3022, 3024, 3100, 3101, 3102, 3103, 3103.5, 3104, 3108, 3109, 3110, 3111, 3200, 3201, 3202, 3203, 3204, 3205, 3206, 3302, 3303, 3304, 3305, 3307, 3308, 3310, 3311, 3405, 3502, 10261, 10530, 10531, 10704, 10734, 12309.5, 13204, 13216, 13266, 13267, 13315, 13316, 13317, 14102, 14245, 14282, 14284, 14310, 15100, 15101, 15102, 15103, 15104, 15105, 15106, 15109, 15110, 15111, 15112, 15150, 15211, 15212, 15278, 15302, 15320, 15321, 15360, 15601, 17301, 17302, 17303, 17304, 17504, 17505, 18371, 18402, 18403, 18576, 18577, 18578, 19229.5, and 21000 of, to amend the heading of Article 2 (commencing with Section 15320) of Chapter 4 of Division 15 of, to amend the heading of Chapter 1 (commencing with Section 3000) of

Division 3 of, to amend the heading of Chapter 3 (commencing with Section 3200) of Division 3 of, to amend the heading of Chapter 2 (commencing with Section 15100) of Division 15 of, to amend the heading of Division 3 (commencing with Section 3000) of, the Elections Code, to amend Section 8211 of the Government Code, and to amend Section 2288 of the Revenue and Taxation Code, relating to voting.

[Approved by Governor October 11, 2007. Filed with Secretary of State October 11, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 35763 of the Education Code is amended to read:

35763. Upon the completion of the canvass of the election returns and the vote by mail ballots, the county superintendent of schools shall tabulate the returns and the vote by mail ballots, and notify the Superintendent of Public Instruction, the board of supervisors and the governing board of each affected school district of the number of votes cast for, and the number of votes cast against, the reorganization of school districts in each school district and also the total number of votes cast for, and the total number of votes cast against, the reorganization of school districts.

SEC. 1.5. Section 300 of the Elections Code is amended to read:

300. (a) "Vote by mail voter" means any voter casting a ballot in any way other than at the polling place.

(b) "Special absentee voter" means an elector who is any of the following:

(1) A member of the Armed Forces of the United States or any auxiliary branch thereof.

(2) A citizen of the United States temporarily living outside of the territorial limits of the United States or the District of Columbia.

(3) Serving on a merchant vessel documented under the laws of the United States.

(4) A spouse or dependent of a member of the Armed Forces or any auxiliary branch thereof.

SEC. 2. Section 335.5 of the Elections Code is amended to read:

335.5. The "official canvass" is the public process of processing and tallying all ballots received in an election, including, but not limited to, provisional ballots and vote by mail ballots not included in the semifinal official canvass. The official canvass also includes the process of reconciling ballots, attempting to prohibit duplicate voting by vote by

mail and provisional voters, and performance of the manual tally of 1 percent of all precincts.

SEC. 3. Section 353.5 of the Elections Code is amended to read:

353.5. The "semifinal official canvass" is the public process of collecting, processing, and tallying ballots and, for state or statewide elections, reporting results to the Secretary of State on election night. The semifinal official canvass may include some or all of the vote by mail and provisional vote totals.

SEC. 4. Section 2150 of the Elections Code is amended to read:

2150. (a) The affidavit of registration shall show:

(1) The facts necessary to establish the affiant as an elector.

(2) The affiant's name at length, including his or her given name, and a middle name or initial, or if the initial of the given name is customarily used, then the initial and middle name. The affiant's given name may be preceded, at affiant's option, by the designation of Miss, Ms., Mrs., or Mr. A person shall not be denied the right to register because of his or her failure to mark a prefix to the given name and shall be so advised on the voter registration card. This subdivision shall not be construed as requiring the printing of prefixes on an affidavit of registration.

(3) The affiant's place of residence, residence telephone number, if furnished, and e-mail address, if furnished. No person shall be denied the right to register because of his or her failure to furnish a telephone number or e-mail address, and shall be so advised on the voter registration card.

(4) The affiant's mailing address, if different from the place of residence.

(5) The affiant's date of birth to establish that he or she will be at least 18 years of age on or before the date of the next election.

(6) The state or country of the affiant's birth.

(7) (A) In the case of an applicant who has been issued a current and valid driver's license, the applicant's driver's license number.

(B) In the case of any other applicant, other than an applicant to whom subparagraph (C) applies, the last four digits of the applicant's social security number.

(C) If an applicant for voter registration has not been issued a current and valid driver's license or a social security number, the state shall assign the applicant a number that will serve to identify the applicant for voter registration purposes. To the extent that the state has a computerized list in effect under this subdivision and the list assigns unique identifying numbers to registrants, the number assigned under this subparagraph shall be the unique identifying number assigned under the list.

(8) The affiant's political party affiliation.

(9) That the affiant is currently not imprisoned or on parole for the conviction of a felony.

(10) A prior registration portion indicating whether the affiant has been registered at another address, under another name, or as intending to affiliate with another party. If the affiant has been so registered, he or she shall give an additional statement giving that address, name, or party.

(b) The affiant shall certify the content of the affidavit as to its truth and correctness, under penalty of perjury, with the signature of his or her name and the date of signing. If the affiant is unable to write he or she shall sign with a mark or cross.

(c) The affidavit of registration shall also contain a space that would enable the affiant to state his or her ethnicity or race, or both. An affiant may not be denied the ability to register because he or she declines to state his or her ethnicity or race.

(d) If any person, including a deputy registrar, assists the affiant in completing the affidavit, that person shall sign and date the affidavit below the signature of the affiant.

(e) The affidavit of registration shall also contain a space to permit the affiant to apply for permanent vote by mail status.

(f) The Secretary of State may continue to supply existing affidavits of registration to county elections officials prior to printing new or revised forms that reflect the changes made to this section by the act that added this subdivision.

SEC. 4.5. Section 2150 of the Elections Code is amended to read:

2150. (a) The affidavit of registration shall show all of the following:

(1) The facts necessary to establish the affiant as an elector.

(2) The affiant's name at length, including his or her given name, and a middle name or initial, or if the initial of the given name is customarily used, then the initial and middle name. The affiant's given name may be preceded, at affiant's option, by the designation of Miss, Ms., Mrs., or Mr. A person shall not be denied the right to register because of his or her failure to mark a prefix to the given name and shall be so advised on the voter registration card. This subdivision shall not be construed as requiring the printing of prefixes on an affidavit of registration.

(3) The affiant's place of residence, residence telephone number, if furnished, and e-mail address, if furnished. No person shall be denied the right to register because of his or her failure to furnish a telephone number or e-mail address, and shall be so advised on the voter registration card.

(4) The affiant's mailing address, if different from the place of residence.

(5) The affiant's date of birth to establish that he or she will be at least 18 years of age on or before the date of the next election.

(6) The state or country of the affiant's birth.

(7) (A) In the case of an applicant who has been issued a current and valid driver's license, the applicant's driver's license number.

(B) In the case of any other applicant, other than an applicant to whom subparagraph (C) applies, the last four digits of the applicant's social security number.

(C) If an applicant for voter registration has not been issued a current and valid driver's license or a social security number, the state shall assign the applicant a number that will serve to identify the applicant for voter registration purposes. To the extent that the state has a computerized list in effect under this subdivision and the list assigns unique identifying numbers to registrants, the number assigned under this subparagraph shall be the unique identifying number assigned under the list.

(8) The affiant's political party affiliation.

(9) That the affiant is currently not imprisoned or on parole for the conviction of a felony.

(10) A prior registration portion indicating whether the affiant has been registered at another address, under another name, or as intending to affiliate with another party. If the affiant has been so registered, he or she shall give an additional statement giving that address, name, or party.

(11) A permanent vote by mail voter portion to be checked off and initialed by the affiant indicating whether the affiant chooses to become a permanent vote by mail voter.

(b) The affiant shall certify the content of the affidavit as to its truth and correctness, under penalty of perjury, with the signature of his or her name and the date of signing. If the affiant is unable to write he or she shall sign with a mark or cross.

(c) The affidavit of registration shall also contain a space that would enable the affiant to state his or her ethnicity or race, or both. An affiant may not be denied the ability to register because he or she declines to state his or her ethnicity or race.

(d) An affidavit of registration shall be deemed complete whether or not the affiant indicates that he or she chooses to become a permanent vote by mail voter pursuant to paragraph (11) of subdivision (a) or declines to state his of her ethnicity or race pursuant to subdivision (c).

(e) If any person, including a deputy registrar, assists the affiant in completing the affidavit, that person shall sign and date the affidavit below the signature of the affiant.

(f) The affidavit of registration shall also contain a space to permit the affiant to apply for permanent vote by mail status.

(g) The Secretary of State may continue to supply existing affidavits of registration to county elections officials prior to printing new or revised forms that reflect the changes made to this section by the act that added this subdivision.

SEC. 5. Section 2166 of the Elections Code is amended to read:

2166. (a) Any person filing with the county elections official a new affidavit of registration or reregistration may have the information relating to his or her residence address, telephone number, and e-mail address appearing on the affidavit, or any list or roster or index prepared therefrom, declared confidential upon order of a superior court issued upon a showing of good cause that a life-threatening circumstance exists to the voter or a member of the voter's household, and naming the county elections official as a party.

(b) Any person granted confidentiality under subdivision (a) shall:

(1) Be considered a vote by mail voter for all subsequent elections or until the county elections official is notified otherwise by the court or in writing by the voter. A voter requesting termination of vote by mail status thereby consents to placement of his or her residence address, telephone number, and e-mail address in the roster of voters.

(2) In addition to the required residence address, provide a valid mailing address to be used in place of the residence address for election, scholarly, or political research, and government purposes. The elections official, in producing any list, roster, or index may, at his or her choice, use the valid mailing address or the word "confidential" or some similar designation in place of the residence address.

(c) No action in negligence may be maintained against any government entity or officer or employee thereof as a result of the disclosure of the information which is the subject of this section unless by a showing of gross negligence or willfulness.

SEC. 6. Section 2166.5 of the Elections Code is amended to read:

2166.5. (a) Any person filing with the county elections official a new affidavit of registration or reregistration may have the information relating to his or her residence address, telephone number, and e-mail address appearing on the affidavit, or any list or roster or index prepared therefrom, declared confidential upon presentation of certification that the person is a participant in the Address Confidentiality for Victims of Domestic Violence and Stalking program pursuant to Chapter 3.1 (commencing with Section 6205) of Division 7 of Title 1 of the Government Code or a participant in the Address Confidentiality for Reproductive Health Care Service Providers, Employees, Volunteers,

and Patients program pursuant to Chapter 3.2 (commencing with Section 6215) of that division.

(b) Any person granted confidentiality under subdivision (a) shall:

(1) Be considered a vote by mail voter for all subsequent elections or until the county elections official is notified otherwise by the Secretary of State or in writing by the voter. A voter requesting termination of vote by mail status thereby consents to placement of his or her residence address, telephone number, and e-mail address in the roster of voters.

(2) In addition to the required residence address, provide a valid mailing address to be used in place of the residence address for election, scholarly, or political research, and government purposes. The elections official, in producing any list, roster, or index may, at his or her choice, use the valid mailing address or the word "confidential" or some similar designation in place of the residence address.

(c) No action in negligence may be maintained against any government entity or officer or employee thereof as a result of the disclosure of the information that is the subject of this section unless by a showing of gross negligence or willfulness.

(d) Subdivisions (a) and (b) shall not apply to any person granted confidentiality upon receipt by the county elections official of a written notice by the address confidentiality program manager of the withdrawal, invalidation, expiration, or termination of the program participant's certification.

(e) This section shall remain in effect only until January 1, 2008, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2008, deletes or extends that date.

SEC. 6.5. Section 2166.5 of the Elections Code is amended to read:

2166.5. (a) Any person filing with the county elections official a new affidavit of registration or reregistration may have the information relating to his or her residence address, telephone number, and e-mail address appearing on the affidavit, or any list or roster or index prepared therefrom, declared confidential upon presentation of certification that the person is a participant in the Address Confidentiality for Victims of Domestic Violence, Sexual Assault, and Stalking program pursuant to Chapter 3.1 (commencing with Section 6205) of Division 7 of Title 1 of the Government Code or a participant in the Address Confidentiality for Reproductive Health Care Service Providers, Employees, Volunteers, and Patients program pursuant to Chapter 3.2 (commencing with Section 6215) of that division.

(b) Any person granted confidentiality under subdivision (a) shall:

(1) Be considered a vote by mail voter for all subsequent elections or until the county elections official is notified otherwise by the Secretary of State or in writing by the voter. A voter requesting termination of vote

by mail status thereby consents to placement of his or her residence address, telephone number, and e-mail address in the roster of voters.

(2) In addition to the required residence address, provide a valid mailing address to be used in place of the residence address for election, scholarly, or political research, and government purposes. The elections official, in producing any list, roster, or index may, at his or her choice, use the valid mailing address or the word "confidential" or some similar designation in place of the residence address.

(c) No action in negligence may be maintained against any government entity or officer or employee thereof as a result of the disclosure of the information that is the subject of this section unless by a showing of gross negligence or willfulness.

(d) Subdivisions (a) and (b) shall not apply to any person granted confidentiality upon receipt by the county elections official of a written notice by the address confidentiality program manager of the withdrawal, invalidation, expiration, or termination of the program participant's certification.

(e) This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

SEC. 7. Section 2166.7 of the Elections Code is amended to read:

2166.7. (a) If authorized by his or her county board of supervisors, a county elections official shall, upon application of a public safety officer, make confidential that officer's residence address, telephone number, and e-mail address appearing on the affidavit of registration, in accordance with the terms and conditions of this section.

(b) The application by the public safety officer shall contain a statement, signed under penalty of perjury, that the person is a public safety officer as defined in subdivision (f) and that a life-threatening circumstance exists to the officer or a member of the officer's family. The application shall be a public record.

(c) The confidentiality granted pursuant to subdivision (a) shall terminate no more than two years after commencement, as determined by the county elections official. The officer may submit a new application for confidentiality pursuant to subdivision (a), and the new request may be granted for an additional period of not more than two years.

(d) Any person granted confidentiality under subdivision (a) shall:

(1) Be considered a vote by mail voter for all subsequent elections or until the county elections official is notified otherwise by the Secretary of State or in writing by the voter. A voter requesting termination of vote by mail status thereby consents to placement of his or her residence address, telephone number, and e-mail address in the roster of voters.

(2) In addition to the required residence address, provide a valid mailing address to be used in place of the residence address for election, scholarly, or political research, and government purposes. The elections official, in producing any list, roster, or index may, at his or her choice, use the valid mailing address or the word "confidential" or some similar designation in place of the residence address.

(e) No action in negligence may be maintained against any government entity or officer or employee thereof as a result of the disclosure of the information that is the subject of this section unless by a showing of gross negligence or willfulness.

(f) "A public safety officer" has the same meaning as defined in subdivision (a), (d), (e), (f), or (j) of Section 6254.24 of the Government Code.

SEC. 8. Section 2191 of the Elections Code is amended to read:

2191. The elections official shall compile an index, list, or file, by precinct, of all persons who voted in the previous statewide general election. This information shall be compiled in conjunction with the purge of voter registration files conducted pursuant to Article 2 (commencing with Section 2220) of Chapter 3.

Information compiled pursuant to this section shall include that information which is required to appear in the index as set forth in Section 2180.

Any person, candidate, or committee who is entitled to obtain a copy of any information contained in this article shall, upon written request to the elections official, be entitled to obtain the index, list, or file compiled pursuant to this section. The elections official shall inform any recipient of this information as to whether the index, list, or file includes a voting history of vote by mail voters. The elections official may require the payment of a fee not to exceed the cost of duplicating the information or providing the tape as a condition to furnishing the information contained in this section.

If the elections official uses data-processing equipment, he or she shall make the index available on a data-processing tape file on request. The elections official shall be required to retain this file until the next November general election in an even-numbered year has been conducted.

SEC. 9. Section 2300 of the Elections Code is amended to read:

2300. (a) All voters, pursuant to the California Constitution and this code, shall be citizens of the United States. There shall be a Voter Bill of Rights for voters, available to the public, which shall read:

(1) (A) You have the right to cast a ballot if you are a valid registered voter.

(B) A valid registered voter means a United States citizen who is a resident in this state, who is at least 18 years of age and not in prison or on parole for conviction of a felony, and who is registered to vote at his or her current residence address.

(2) You have the right to cast a provisional ballot if your name is not listed on the voting rolls.

(3) You have the right to cast a ballot if you are present and in line at the polling place prior to the close of the polls.

(4) You have the right to cast a secret ballot free from intimidation.

(5) (A) You have the right to receive a new ballot if, prior to casting your ballot, you believe you made a mistake.

(B) If at any time before you finally cast your ballot, you feel you have made a mistake, you have the right to exchange the spoiled ballot for a new ballot. Vote by mail voters may also request and receive a new ballot if they return their spoiled ballot to an elections official prior to the closing of the polls on election day.

(6) You have the right to receive assistance in casting your ballot, if you are unable to vote without assistance.

(7) You have the right to return a completed vote by mail ballot to any precinct in the county.

(8) You have the right to election materials in another language, if there are sufficient residents in your precinct to warrant production.

(9) (A) You have the right to ask questions about election procedures and observe the election process.

(B) You have the right to ask questions of the precinct board and elections officials regarding election procedures and to receive an answer or be directed to the appropriate official for an answer. However, if persistent questioning disrupts the execution of their duties, the board or election officials may discontinue responding to questions.

(10) You have the right to report any illegal or fraudulent activity to a local elections official or to the Secretary of State's office.

(b) Beneath the Voter Bill of Rights there shall be listed a toll-free telephone number to call if a person has been denied a voting right or to report election fraud or misconduct.

(c) The Secretary of State may develop regulations to implement and clarify the Voter Bill of Rights set forth in subdivision (a).

(d) The Voter Bill of Rights set forth in subdivisions (a) and (b) shall be made available to the public before each election and on election day, at a minimum, as follows:

(1) The Voter Bill of Rights shall be printed in the statewide voter pamphlet, pursuant to Section 9084, in a minimum of 12-point type. Subparagraph (B) of paragraph (1) of subdivision (a), subparagraph (B) of paragraph (5) of subdivision (a), and subparagraph (B) of paragraph

(9) of subdivision (a) may be printed in a smaller point type than the rest of the Voter Bill of Rights.

(2) Posters or other printed materials containing the Voter Bill of Rights shall be included in precinct supplies pursuant to Section 14105.

SEC. 10. The heading of Division 3 (commencing with Section 3000) of the Elections Code is amended to read:

DIVISION 3. VOTE BY MAIL VOTING, NEW RESIDENT, AND NEW CITIZEN VOTING

SEC. 11. The heading of Chapter 1 (commencing with Section 3000) of Division 3 of the Elections Code is amended to read:

Chapter 1. Vote by Mail Application and Voting Procedures

SEC. 12. Section 3000 of the Elections Code is amended to read:

3000. This division shall be liberally construed in favor of the vote by mail voter.

SEC. 13. Section 3001 of the Elections Code is amended to read:

3001. Except as provided in Chapter 3 (commencing with Section 3200) and Sections 3007.5 and 3007.7, application for a vote by mail voter's ballot shall be made in writing to the elections official having jurisdiction over the election between the 29th and the 7th day prior to the election. The application shall be signed by the applicant and shall show his or her place of residence. Any applications received by the elections official prior to the 29th day shall be kept and processed during the application period.

SEC. 14. Section 3002 of the Elections Code is amended to read:

3002. (a) Notwithstanding Section 3001, a person granted confidentiality pursuant to Section 2166 shall be considered a vote by mail voter.

(b) The provisions of Chapter 3 (commencing with Section 3200) relating to permanent vote by mail voters shall apply so far as they may be consistent with this section and Section 2166.

(c) All persons granted confidentiality pursuant to Section 2166 shall (1) be required to vote by mail ballot, and (2) in addition to the required residence address, provide a valid mailing address to the county elections official to be used in place of the residence address.

SEC. 15. Section 3003 of the Elections Code is amended to read:

3003. The vote by mail ballot shall be available to any registered voter.

SEC. 16. Section 3004 of the Elections Code is amended to read:

3004. The county elections official shall place a notice in any office within the county where applications are taken for federal passports or where military enlistments are received to inform potential special absentee voters of their right to a vote by mail voter's ballot and where registration materials and application forms can be obtained.

SEC. 17. Section 3005 of the Elections Code is amended to read:

3005. Whenever, on the 88th day before the election, there are 250 or less persons registered to vote in any precinct, the elections official may furnish each voter with a vote by mail ballot along with a statement that there will be no polling place for the election. The elections official shall also notify each voter of the location of the two nearest polling places in the event the voter chooses to return the ballot on election day. The voter shall not be required to file an application for the vote by mail ballot and the ballot shall be sent as soon as the ballots are available.

No precinct shall be divided in order to conform to this section.

SEC. 18. Section 3006 of the Elections Code is amended to read:

3006. (a) Any printed application that is to be distributed to voters for requesting vote by mail ballots shall contain spaces for the following:

(1) The printed name and residence address of the voter as it appears on the affidavit of registration.

(2) The address to which the ballot is to be mailed.

(3) The voter's signature.

(4) The name and date of the election for which the request is to be made.

(5) The date the application must be received by the elections official.

(b) (1) The information required by paragraphs (1), (4), and (5) of subdivision (a) may be preprinted on the application. The information required by paragraphs (2) and (3) of subdivision (a) shall be personally affixed by the voter.

(2) An address, as required by paragraph (2) of subdivision (a), may not be the address of any political party, a political campaign headquarters, or a candidate's residence. However, a candidate, his or her spouse, immediate family members, and any other voter who shares the same residence address as the candidate may request that a vote by mail ballot be mailed to the candidate's residence address.

(3) Any application that contains preprinted information shall contain a conspicuously printed statement, as follows: "You have the legal right to mail or deliver this application directly to the local elections official of the county where you reside."

(c) The application shall inform the voter that if he or she is not affiliated with a political party, the voter may request a vote by mail ballot for a particular political party for the primary election, if that political party has adopted a party rule, duly noticed to the Secretary of

State, authorizing that vote. The application shall contain a toll-free telephone number, established by the Secretary of State, that the voter may call to access information regarding which political parties have adopted such a rule. The application shall contain a checkoff box with a conspicuously printed statement that reads, as follows: "I am not presently affiliated with any political party. However, for this primary election only, I request a vote by mail ballot for the _____ Party." The name of the political party shall be personally affixed by the voter.

(d) The application shall provide the voters with information concerning the procedure for establishing permanent vote by mail voter status, and the basis upon which permanent vote by mail voter status is claimed.

(e) The application shall be attested to by the voter as to the truth and correctness of its content, and shall be signed under penalty of perjury.

SEC. 19. Section 3007 of the Elections Code is amended to read:

3007. The Secretary of State shall prepare and distribute to appropriate elections officials a uniform application format for a vote by mail voter's ballot that conforms to this chapter. This format shall be followed by all individuals, organizations, and groups who distribute applications for a vote by mail voter's ballot. The uniform format need not be utilized by elections officials in preparing a vote by mail voter's ballot application to be included with the sample ballot.

SEC. 20. Section 3007.5 of the Elections Code is amended to read:

3007.5. (a) The Secretary of State shall prepare and distribute to appropriate elections officials a uniform electronic application format for a vote by mail voter's ballot that conforms to this section.

(b) The uniform electronic application shall contain spaces for at least the following information:

(1) The name and residence address of the registered voter as it appears on the affidavit of registration.

(2) The address to which the ballot is to be mailed.

(3) The name and date of the election for which the request is made.

(4) The date the application must be received by the elections official.

(5) The date of birth of the registered voter.

(c) The uniform electronic application shall inform the voter that if he or she is not affiliated with a political party, the voter may request a vote by mail ballot for a particular political party for the primary election, if that political party has adopted a party rule, duly noticed to the Secretary of State, authorizing that vote. The application shall contain a toll-free telephone number, established by the Secretary of State, that the voter may call to access information regarding which political parties have adopted such a rule. The application shall list the parties that have notified the Secretary of State of the adoption of such a rule. The

application shall contain a checkoff box with a conspicuously printed statement that reads, as follows: "I am not presently affiliated with any political party. However, for this primary election only, I request a vote by mail ballot for the ____ Party." The name of the political party shall be personally affixed by the voter.

(d) The uniform electronic application shall contain a conspicuously printed statement, as follows: "Only the registered voter himself or herself may apply for a vote by mail ballot. An application for a vote by mail ballot made by a person other than the registered voter is a criminal offense."

(e) The uniform electronic application shall include the following statement: "A ballot will not be sent to you if this application is incomplete or inaccurate."

(f) The uniform electronic application format shall not permit the form to be electronically submitted unless all of the information required to complete the application is contained in the appropriate fields.

SEC. 21. Section 3007.7 of the Elections Code is amended to read:

3007.7. (a) The local elections official may offer a voter the ability to electronically apply for a vote by mail voter's ballot. If the local elections official offers the uniform electronic application, the electronic application shall be in an interactive Internet format to be completed through the local elections official's secure Internet Web site and may not be a downloadable form. The nondownloadable form shall be of a format that would allow the registered voter making an application for a vote by mail voter's ballot to enter the required information and submit the single form directly to the elections official's secure Internet Web site. The local elections official shall make every effort to ensure the security of the submitted information.

(b) Upon receiving an electronic vote by mail ballot application that contains the required information within the proper time, the elections official shall check the information provided against the voter's information on file. If the elections official deems the applicant entitled to a vote by mail voter's ballot, the elections official shall deliver the appropriate vote by mail voter's ballot by mail or in person.

(c) If the elections official determines that an electronic vote by mail ballot application does not contain all of the required information, or for any other reason is defective, and the elections official is able to ascertain the voter's address, the elections official may not mail the voter a vote by mail voter's ballot, but shall mail the voter a notice of defect. The notice of defect shall do both of the following:

(1) Specifically inform the voter of the information that is required or the reason for the defect in the application.

(2) State the procedure necessary to remedy the defective application.

(d) An address, as required by paragraph (2) of subdivision (b) of Section 3007.5, may not be the address of any political party, a political campaign headquarters, or a candidate's residence. However, a candidate, his or her spouse, immediate family members, and any other voter who shares the same residence address as the candidate may request that a vote by mail ballot be mailed to the candidate's residence address.

(e) Except as provided in Section 3007.5 and this section, all other sections of this code pertaining to vote by mail voter applications, submissions, deadlines, and canvassing shall apply to electronic vote by mail ballot applications and applicants.

SEC. 22. Section 3008 of the Elections Code is amended to read:

3008. (a) Any individual, organization, or group that distributes applications for vote by mail voter ballots and receives completed application forms shall return the forms to the appropriate elections official within 72 hours of receiving the completed forms, or before the deadline for application, whichever is sooner. The name, address, and telephone number of any organization that authorizes the distribution of the applications shall be included on the application.

(b) Any application for a vote by mail voter's ballot that is sent by an individual, group, or organization to a voter shall be nonforwardable. Any vote by mail voter's ballot that is returned to an elections official as undeliverable shall not be forwarded by the elections official.

(c) A person may not submit a vote by mail ballot application electronically for another registered voter.

SEC. 23. Section 3009 of the Elections Code is amended to read:

3009. (a) Upon receipt of any vote by mail ballot application signed by the voter that arrives within the proper time, the elections official should determine if the signature and residence address on the ballot application appear to be the same as that on the original affidavit of registration. The elections official may make this signature check upon receiving the voted ballot, but the signature must be compared before the vote by mail voter ballot is canvassed.

(b) If the elections official deems the applicant entitled to a vote by mail voter's ballot he or she shall deliver by mail or in person the appropriate ballot. The ballot may be delivered to the applicant, his or her spouse, child, parent, grandparent, grandchild, or sibling, or a person residing in the same household as the vote by mail voter, except that in no case shall the ballot be delivered to an individual under 16 years of age. The elections official shall deliver the vote by mail ballot to the applicant's spouse, child, parent, grandparent, grandchild, or sibling, or a person residing in the same household as the vote by mail voter only if that person signs a statement attested to under penalty of perjury that provides the name of the applicant and his or her relationship to the

applicant, and affirms that he or she is 16 years of age or older, and is authorized by the applicant to deliver the vote by mail ballot.

(c) If the elections official determines that an application does not contain all of the information prescribed in Section 3001 or 3006, or for any other reason is defective, and the elections official is able to ascertain the voter's address, the elections official shall, within one working day of receiving the application, mail the voter a vote by mail voter's ballot together with a notice. The notice shall inform the voter that the voter's vote by mail voter's ballot shall not be counted unless the applicant provides the elections official with the missing information or corrects the defects prior to, or at the time of, receipt of the voter's executed vote by mail voter's ballot. The notice shall specifically inform the voter of the information that is required or the reason for the defects in the application, and shall state the procedure necessary to remedy the defective application.

If the voter substantially complies with the requirements contained in the elections official's notice, the voter's ballot shall be counted.

In determining from the records of registration if the signature and residence address on the application appear to be the same as that on the original affidavit of registration, the elections official or registrar of voters may use the duplicate file of affidavits of registered voters or the facsimiles of voter's signatures, provided that the method of preparing and displaying the facsimiles complies with law.

SEC. 24. Section 3011 of the Elections Code is amended to read:

3011. (a) The identification envelope shall contain all of the following:

(1) A declaration, under penalty of perjury, stating that the voter resides within the precinct in which he or she is voting and is the person whose name appears on the envelope.

(2) The signature of the voter.

(3) The residence address of the voter as shown on the affidavit of registration.

(4) The date of signing.

(5) A notice that the envelope contains an official ballot and is to be opened only by the canvassing board.

(6) A warning plainly stamped or printed on it that voting twice constitutes a crime.

(7) A warning plainly stamped or printed on it that the voter must sign the envelope in his or her own handwriting in order for the ballot to be counted.

(8) A statement that the voter has neither applied, nor intends to apply, for a vote by mail voter's ballot from any other jurisdiction for the same election.

(9) The name of the person authorized by the voter to return the vote by mail ballot pursuant to Section 3017.

(10) The relationship to the voter of the person authorized to return the vote by mail ballot.

(11) The signature of the person authorized to return the vote by mail ballot.

(b) Except at a primary election for partisan office, and notwithstanding any other provision of law, the vote by mail voter's party affiliation may not be stamped or printed on the identification envelope.

SEC. 24.5. Section 3011 of the Elections Code is amended to read:

3011. (a) The identification envelope shall contain all of the following:

(1) A declaration, under penalty of perjury, stating that the voter resides within the precinct in which he or she is voting and is the person whose name appears on the envelope.

(2) The signature of the voter.

(3) The residence address of the voter as shown on the affidavit of registration.

(4) The date of signing.

(5) A notice that the envelope contains an official ballot and is to be opened only by the canvassing board.

(6) A warning plainly stamped or printed on it that voting twice constitutes a crime.

(7) A warning plainly stamped or printed on it that the voter must sign the envelope in his or her own handwriting in order for the ballot to be counted.

(8) A statement that the voter has neither applied, nor intends to apply, for a vote by mail voter's ballot from any other jurisdiction for the same election.

(9) The name of the person authorized by the voter to return the vote by mail ballot pursuant to Section 3017.

(10) The relationship to the voter of the person authorized to return the vote by mail ballot.

(11) The signature of the person authorized to return the vote by mail ballot.

(b) Except at a primary election for partisan office, and notwithstanding any other provision of law, the vote by mail voter's party affiliation may not be stamped or printed on the identification envelope.

(c) If the elections official determines that more than one first-class stamp or the equivalent postage is required to return the absentee ballot, the elections official shall provide a notification to the voter of how

many first-class stamps or the equivalent postage is required. The notification shall consist of a notice printed on the identification envelope or an insert included with the ballot.

SEC. 25. Section 3012 of the Elections Code is amended to read:

3012. Whenever the elections official is required to mail a vote by mail voter's ballot to any elector and the address to which the ballot is to be mailed is a point outside the territorial limits of the United States, the elections official shall mail the vote by mail voter's ballot to the elector by airmail and, if under any law of the United States official election ballots may be mailed without the payment of postage, the elections official shall so mail them.

SEC. 26. Section 3013 of the Elections Code is amended to read:

3013. Upon delivering or mailing a vote by mail voter's ballot, the elections official shall enter on the application of the vote by mail voter, or on the affidavit of registration, the type of ballot and the date of delivering or mailing. Before the election the elections official shall send to the inspector of each precinct in his or her county or city a list of the voters in that precinct applying for and receiving ballots under the provisions of this chapter.

SEC. 27. Section 3014 of the Elections Code is amended to read:

3014. The elections official shall send a second vote by mail voter ballot to any voter upon receipt of a statement under penalty of perjury that the voter has failed to receive, lost, or destroyed his or her original ballot.

The elections official shall keep a record of each vote by mail voter ballot sent to and received from a voter and shall verify, prior to counting any duplicate ballot, that the voter has not attempted to vote twice. If it is determined that a voter has attempted to vote twice, both ballots shall be void.

SEC. 28. Section 3015 of the Elections Code is amended to read:

3015. Vote by mail voters who return to their home precincts on election day may vote only if they surrender their vote by mail voter ballots to the inspector of the precinct board.

The precinct board shall return the unused vote by mail voters' ballots to the elections official in an envelope designated for this purpose.

SEC. 29. Section 3016 of the Elections Code is amended to read:

3016. Any vote by mail voter who is unable to surrender his or her vote by mail voter's ballot within the meaning of Section 3015 shall be issued a provisional ballot in accordance with Section 14310.

SEC. 30. Section 3017 of the Elections Code is amended to read:

3017. (a) All vote by mail ballots cast under this division shall be voted on or before the day of the election. After marking the ballot, the vote by mail voter shall do either of the following: (1) return the ballot

by mail or in person to the elections official from whom it came or (2) return the ballot in person to any member of a precinct board at any polling place within the jurisdiction. However, a vote by mail voter who, because of illness or other physical disability, is unable to return the ballot, may designate his or her spouse, child, parent, grandparent, grandchild, brother, sister, or a person residing in the same household as the vote by mail voter to return the ballot to the elections official from whom it came or to the precinct board at any polling place within the jurisdiction. The ballot must, however, be received by either the elections official from whom it came or the precinct board before the close of the polls on election day.

(b) The elections official shall establish procedures to ensure the secrecy of any ballot returned to a precinct polling place and the security, confidentiality, and integrity of any personal information collected, stored, or otherwise used pursuant to this section.

(c) On or before March 1, 2008, the elections official shall establish procedures to track and confirm the receipt of voted vote by mail ballots and to make this information available by means of online access using the county's elections division Internet Web site. If the county does not have an elections division Internet Web site, the elections official shall establish a toll-free telephone number that may be used to confirm the date a voted vote by mail ballot was received.

(d) The provisions of this section are mandatory, not directory, and no ballot shall be counted if it is not delivered in compliance with this section.

(e) Notwithstanding subdivision (a), no vote by mail voter's ballot shall be returned by any paid or volunteer worker of any general purpose committee, controlled committee, independent expenditure committee, political party, candidate's campaign committee, or any other group or organization at whose behest the individual designated to return the ballot is performing a service. However, this subdivision shall not apply to a candidate or a candidate's spouse.

SEC. 30.5. Section 3017 of the Elections Code is amended to read:

3017. (a) All vote by mail ballots cast under this division shall be voted on or before the day of the election. After marking the ballot, the absent voter shall do either of the following: (1) return the ballot by mail or in person to the elections official from whom it came or (2) return the ballot in person to any member of a precinct board at any polling place within the state. However, a vote by mail voter who, because of illness or other physical disability, is unable to return the ballot, may designate his or her spouse, child, parent, grandparent, grandchild, brother, sister, or a person residing in the same household as the vote by mail voter to return the ballot to the elections official who is issued the ballot or to

the precinct board at any polling place within the state. The ballot must, however, be received by either the elections official who issued the ballot or any precinct board in the state before the close of the polls on election day. In the case of a vote by mail ballot returned to a precinct board of a polling place located in a county other than the county of the elections official who issued the ballot, the elections official responsible for the polling place at which the ballot is returned shall forward the ballot to the elections official who issued the ballot.

(b) The elections official shall establish procedures to ensure the secrecy of any ballot returned to a precinct polling place and the security, confidentiality, and integrity of any personal information collected, stored, or otherwise used pursuant to this section.

(c) On or before March 1, 2008, the elections official shall establish procedures to track and confirm the receipt of voted vote by mail ballots and to make this information available by means of online access using the county's elections division Internet Web site. If the county does not have an elections division Internet Web site, the elections official shall establish a toll-free telephone number that may be used to confirm the date a voted vote by mail ballot was received.

(d) The provisions of this section are mandatory, not directory, and no ballot shall be counted if it is not delivered in compliance with this section.

(e) Notwithstanding subdivision (a), no vote by mail voter's ballot shall be returned by any paid or volunteer worker of any general purpose committee, controlled committee, independent expenditure committee, political party, candidate's campaign committee, or any other group or organization at whose behest the individual designated to return the ballot is performing a service. However, this subdivision shall not apply to a candidate or a candidate's spouse.

SEC. 31. Section 3018 of the Elections Code is amended to read:

3018. (a) Any voter using a vote by mail ballot may, prior to the close of the polls on election day, vote the ballot at the office of the elections official. The voter shall vote the ballot in the presence of an officer of the elections official or in a voting booth, at the discretion of the elections official, but in no case may his or her vote be observed. Where voting machines are used the elections official may provide one voting machine for each ballot type used within the jurisdiction. Elections officials may provide electronic voting devices for this purpose provided that sufficient devices are provided to include all ballot types in the election.

(b) For purposes of this section, the office of an elections official may include satellite locations. Notice of the satellite locations shall be made by the elections official by the issuance of a general news release, issued

not later than 14 days prior to voting at the satellite location, except that in a county with a declared emergency or disaster, notice shall be made not later than 48 hours prior to voting at the satellite location. The news release shall set forth the following information:

(1) The satellite location or locations.

(2) The dates and hours the satellite location or locations will be open.

(3) A telephone number that voters may use to obtain information regarding vote by mail ballots and the satellite locations.

(c) Vote by mail ballots voted at a satellite location pursuant to this section shall be placed in a vote by mail voter identification envelope to be completed by the voter pursuant to Section 3011. However, if the elections official utilizes electronic voting devices, the vote by mail ballot may be cast on an electronic voting device.

SEC. 32. Section 3019 of the Elections Code is amended to read:

3019. Upon receipt of the vote by mail ballot the elections official shall compare the signature on the envelope with that appearing on the affidavit of registration and, if they compare, deposit the ballot, still in the identification envelope, in a ballot container in his or her office. A variation of the signature caused by the substitution of initials for the first or middle name, or both, shall not invalidate the ballot. If the ballot is rejected because the signatures do not compare, the envelope shall not be opened and the ballot shall not be counted. The cause of the rejection shall be written on the face of the identification envelope.

If the elections official has compared the signature of the voter's application with the affidavit pursuant to Section 3009, the application may be used rather than the affidavit to make the signature check required by this section.

No ballot shall be removed from its identification envelope until the time for processing. No ballot shall be rejected for cause after the envelope has been opened.

In determining from the records of registration if the signature and residence address on the identification envelope appear to be the same as that on the affidavit of registration, the elections official or registrar of voters may use the duplicate file of affidavits of registered voters or the facsimiles of voters' signatures, provided that the method of preparing and displaying the facsimiles complies with the law.

SEC. 33. Section 3020 of the Elections Code is amended to read:

3020. All vote by mail ballots cast under this division shall be received by the elections official from whom they were obtained or by the precinct board no later than the close of the polls on election day.

SEC. 34. Section 3021 of the Elections Code is amended to read:

3021. After the close of the period for requesting vote by mail voter ballots by mail any voter unable to go to the polls because of illness or

disability resulting in his or her confinement in a hospital, sanatorium, nursing home, or place of residence, or any voter unable because of a physical handicap to go to his or her polling place or because of that handicap is unable to vote at his or her polling place due to existing architectural barriers at his or her polling place denying him or her physical access to the polling place, voting booth, or voting apparatus or machinery, or any voter unable to go to his or her polling place because of conditions resulting in his or her absence from the precinct on election day may request in a written statement, signed under penalty of perjury that a ballot be delivered to him or her. This written statement shall not be required if the vote by mail ballot is voted in the office of the elections official as defined by subdivision (b) of Section 3018, at the time of the request. This ballot shall be delivered by the elections official to any authorized representative of the voter who presents this written statement to the elections official.

Before delivering the ballot the elections official may compare the signature on the request with the signature on the voter's affidavit of registration, but in any event, the signature shall be compared before the vote by mail ballot is canvassed.

The voter shall mark the ballot, place it in the identification envelope, fill out and sign the envelope and return the ballot, personally or through the authorized representative, to either the elections official or any polling place within the jurisdiction.

These ballots shall be processed and counted in the same manner as other vote by mail ballots.

SEC. 35. Section 3022 of the Elections Code is amended to read:

3022. The elections official shall include with the sample ballot an application for a vote by mail ballot.

SEC. 36. Section 3024 of the Elections Code is amended to read:

3024. The cost to administer vote by mail ballots where issues and elective offices related to school districts, as defined by Section 17519 of the Government Code, are included on a ballot election with noneducation issues and elective offices shall not be fully or partially prorated to a school district. The Commission on State Mandates shall delete school districts, county boards of education, and community college districts from the list of eligible claimants in the Parameters and Guidelines for the Absentee Ballot Mandates.

SEC. 37. Section 3100 of the Elections Code is amended to read:

3100. When a voter who qualifies as a special absentee voter pursuant to subdivision (b) of Section 300 applies for a vote by mail ballot, the application shall be deemed to be an affidavit of registration and an application for permanent vote by mail status, pursuant to Chapter 3 (commencing with Section 3200). The application must be completed

by the voter and must contain the voter's name, residence address for voting purposes, the address to which the ballot is to be sent, the voter's political party for a primary election, and the voter's signature.

If the applicant is not a resident of the county to which he or she has applied, the elections official receiving the application shall forward it immediately to the proper county.

SEC. 38. Section 3101 of the Elections Code is amended to read:

3101. Upon timely receipt of the application for a vote by mail ballot, the elections official shall examine the application to ascertain that it is properly executed in accordance with this code. If the elections official is satisfied of this fact, the applicant shall be deemed a duly registered voter as of the date appearing on the application to the same extent and with the same effect as though he or she had registered in proper time prior to the election.

SEC. 39. Section 3102 of the Elections Code, as amended by Section 1 of Chapter 821 of the Statutes of 2004, is amended to read:

3102. (a) Applications for the ballots of special absentee voters shall be received and, except as provided in Section 3103.5, the ballots shall be received and canvassed, at the same time and under the same procedure as vote by mail ballots, insofar as that procedure is not inconsistent with this chapter.

(b) This section shall remain in effect only until January 1, 2009, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2009, deletes or extends that date.

SEC. 40. Section 3102 of the Elections Code, as added by Section 2 of Chapter 821 of the Statutes of 2004, is amended to read:

3102. (a) Applications for the ballots of special absentee voters shall be received, and the ballots shall be received and canvassed at the same time and under the same procedure as vote by mail ballots, insofar as that procedure is not inconsistent with this chapter.

(b) This section shall become operative January 1, 2009.

SEC. 41. Section 3103 of the Elections Code, as amended by Section 3 of Chapter 821 of the Statutes of 2004, is amended to read:

3103. (a) Any application made pursuant to this chapter that is received by the elections official prior to the 60th day before the election shall be kept and processed on or after the 60th day before the election.

(b) The elections official shall immediately send the voter a ballot in a form prescribed and provided by the Secretary of State. The elections official shall send with the ballot a list of all candidates who have qualified for the ballot by the 60th day before the election and a list of all measures that are to be submitted to the voters and on which the voter is qualified to vote. The voter shall be entitled to write in the name of

any specific candidate seeking nomination or election to any office listed on the ballot.

(c) Notwithstanding Section 15341 or any other provision of law, any name written upon a ballot for a particular office pursuant to subdivision (b) shall be counted for the office or nomination, providing the candidate whose name has been written on the ballot has, as of the date of the election, qualified to have his or her name placed on the ballot for the office, or has qualified as a write-in candidate for the office.

(d) Except as provided in Section 3103.5, the elections official shall receive and canvass special absentee voter ballots described in this section under the same procedure as vote by mail ballots, insofar as that procedure is not inconsistent with this section.

(e) In the event that a voter executes a special absentee ballot pursuant to this section and an application for a vote by mail ballot pursuant to Section 3101, the elections official shall cancel the voter's permanent vote by mail status, and process the application in accordance with Chapter 1 (commencing with Section 3000).

(f) Notwithstanding any other provision of law, a special absentee voter who qualifies pursuant to this section may, by facsimile transmission, register to vote and apply for a special absentee ballot or a vote by mail ballot. Upon request, the elections official may send to the qualified special absentee voter either by mail, facsimile, or electronic transmission the special absentee ballot or, if available, a vote by mail ballot pursuant to Chapter 1 (commencing with Section 3000).

(g) This section shall remain in effect only until January 1, 2009, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2009, deletes or extends that date.

SEC. 42. Section 3103 of the Elections Code, as added by Section 4 of Chapter 821 of the Statutes of 2004, is amended to read:

3103. (a) Any application made pursuant to this chapter that is received by the elections official prior to the 60th day before the election shall be kept and processed on or after the 60th day before the election.

(b) The elections official shall immediately send the voter a ballot in a form prescribed and provided by the Secretary of State. The elections official shall send with the ballot a list of all candidates who have qualified for the ballot by the 60th day before the election and a list of all measures that are to be submitted to the voters and on which the voter is qualified to vote. The voter shall be entitled to write in the name of any specific candidate seeking nomination or election to any office listed on the ballot.

(c) Notwithstanding Section 15341 or any other provision of law, any name written upon a ballot for a particular office pursuant to subdivision (b) shall be counted for the office or nomination, providing the candidate

whose name has been written on the ballot has, as of the date of the election, qualified to have his or her name placed on the ballot for the office, or has qualified as a write-in candidate for the office.

(d) The elections official shall receive and canvass special absentee voter ballots described in this section under the same procedure as vote by mail ballots, insofar as that procedure is not inconsistent with this section.

(e) In the event that a voter executes a special absentee ballot pursuant to this section and an application for a vote by mail ballot pursuant to Section 3101, the elections official shall reject the voted ballot previously cast, cancel the voter's permanent vote by mail status, and process the application in accordance with Chapter 1 (commencing with Section 3000).

(f) Notwithstanding any other provision of law, a special absentee voter who qualifies pursuant to this section may, by facsimile transmission, register to vote and apply for a special absentee ballot or a vote by mail ballot. Upon request, the elections official may send to the qualified special absentee voter either by mail, facsimile, or electronic transmission the special absentee ballot or, if available, a vote by mail ballot pursuant to Chapter 1 (commencing with Section 3000).

(g) This section shall become operative January 1, 2009.

SEC. 43. Section 3103.5 of the Elections Code is amended to read:

3103.5. (a) (1) A special absentee voter who is temporarily living outside of the territorial limits of the United States or the District of Columbia may return his or her ballot by facsimile transmission. To be counted, the ballot returned by facsimile transmission must be received by the voter's elections official no later than the closing of the polls on election day and must be accompanied by an identification envelope containing all of the information required by Section 3011 and an oath of voter declaration in substantially the following form:

OATH OF VOTER

I, ___, acknowledge that by returning my voted ballot by facsimile transmission I have waived my right to have my ballot kept secret. Nevertheless, I understand that, as with any vote by mail voter, my signature, whether on this oath of voter form or my identification envelope, will be permanently separated from my voted ballot to maintain its secrecy at the outset of the tabulation process and thereafter.

My residence address is_____.
(Street Address) (City) (ZIP Code)

My current mailing address is _____.
(Street Address) (City) (ZIP Code)

My e-mail address is _____. My facsimile transmission number is _____.

I am a resident of _____ County, State of California, and I have not applied, nor intend to apply, for a vote by mail ballot from any other jurisdiction for the same election.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated this _____ day of _____, 20_____.

(Signature)_____
voter (power of attorney cannot be accepted)

YOUR BALLOT CANNOT BE COUNTED UNLESS YOU SIGN THE ABOVE OATH AND INCLUDE IT WITH YOUR BALLOT AND IDENTIFICATION ENVELOPE, ALL OF WHICH ARE RETURNED BY FACSIMILE TRANSMISSION.

(2) Notwithstanding the voter's waiver of the right to a secret ballot, each elections official shall adopt appropriate procedures to protect the secrecy of ballots returned by facsimile transmission.

(3) Upon receipt of a ballot returned by facsimile transmission, the elections official shall determine the voter's eligibility to vote by comparing the signature on the return information with the signature on the voter's affidavit of registration. The ballot shall be duplicated and all materials preserved according to procedures set forth in this code.

(4) Notwithstanding paragraph (1), a special absentee voter who is permitted to return his or her ballot by facsimile transmission is, nonetheless, encouraged to return his or her ballot by mail or in person if possible. A special absentee voter should return a ballot by facsimile transmission only if doing so is necessary for the ballot to be received before the close of polls on election day.

(b) The Secretary of State shall make a recommendation to the Legislature, no later than December 31, 2008, on the benefits and problems, if any, derived from permitting qualified special absentee voters to return their ballots by facsimile transmission, and shall include in the recommendation the number of ballots returned by facsimile transmission pursuant to this section.

(c) This section shall remain in effect only until January 1, 2009, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2009, deletes or extends that date.

SEC. 43.5. Section 3103.5 of the Elections Code is amended to read:

3103.5. (a) (1) A special absentee voter who is temporarily living outside of the territorial limits of the United States or the District of Columbia, or is called for military service within the United States on or after the final date to make application for a vote by absent voter ballot, may return his or her ballot by facsimile transmission. To be counted, the ballot returned by facsimile transmission must be received by the voter's elections official no later than the closing of the polls on election day and must be accompanied by an identification envelope containing all of the information required by Section 3011 and an oath of voter declaration in substantially the following form:

OATH OF VOTER

I, _____, acknowledge that by returning my voted ballot by facsimile transmission I have waived my right to have my ballot kept secret. Nevertheless, I understand that, as with any vote by mail voter, my signature, whether on this oath of voter form or my identification envelope, will be permanently separated from my voted ballot to maintain its secrecy at the outset of the tabulation process and thereafter.

My residence address is_____.
(Street Address) (City) (ZIP Code)

My current mailing address is _____.
(Street Address) (City) (ZIP Code)

My e-mail address is _____. My facsimile transmission number is _____.

I am a resident of _____ County, State of California, and I have not applied, nor intend to apply, for a vote by mail ballot from any other jurisdiction for the same election.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated this _____ day of _____, 20_____.

(Signature)_____
voter (power of attorney cannot be accepted)

YOUR BALLOT CANNOT BE COUNTED UNLESS YOU SIGN THE ABOVE OATH AND INCLUDE IT WITH YOUR BALLOT AND IDENTIFICATION ENVELOPE, ALL OF WHICH ARE RETURNED BY FACSIMILE TRANSMISSION.

(2) Notwithstanding the voter's waiver of the right to a secret ballot, each elections official shall adopt appropriate procedures to protect the secrecy of ballots returned by facsimile transmission.

(3) Upon receipt of a ballot returned by facsimile transmission, the elections official shall determine the voter's eligibility to vote by comparing the signature on the return information with the signature on the voter's affidavit of registration. The ballot shall be duplicated and all materials preserved according to procedures set forth in this code.

(4) Notwithstanding paragraph (1), a special absentee voter who is permitted to return his or her ballot by facsimile transmission is, nonetheless, encouraged to return his or her ballot by mail or in person if possible. A special absentee voter should return a ballot by facsimile transmission only if doing so is necessary for the ballot to be received before the close of polls on election day.

(b) The Secretary of State shall make a recommendation to the Legislature, no later than December 31, 2008, on the benefits and problems, if any, derived from permitting qualified special absentee voters to return their ballots by facsimile transmission, and shall include in the recommendation the number of ballots returned by facsimile transmission pursuant to this section.

(c) This section shall remain in effect only until January 1, 2009, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2009, deletes or extends that date.

SEC. 44. Section 3104 of the Elections Code is amended to read:

3104. Any vote by mail ballot application by a qualified special absentee voter shall also be deemed an affidavit of voter registration and an application for permanent vote by mail status.

SEC. 45. Section 3108 of the Elections Code is amended to read:

3108. If any special absentee voter to whom a vote by mail ballot has been mailed and which ballot has not been voted by him or her returns to the county in which he or she is registered on or before election day, he or she may apply for a second vote by mail ballot pursuant to Section 3014. The elections official shall require him or her to sign an authorization to cancel the vote by mail ballot previously issued when it is returned to the county elections official. The elections official shall then issue another vote by mail ballot to the voter, or the elections official

shall certify to the precinct board that the voter is eligible to vote in the precinct polling place of his or her residence.

SEC. 46. Section 3109 of the Elections Code is amended to read:

3109. If any special absentee voter returns to the county of his or her residence after the final day for making application for a vote by mail ballot, he or she may appear before the elections official and make application for registration, vote by mail ballot, or both. The elections official shall register the voter, if he or she is not registered, and deliver to him or her a vote by mail ballot which may be voted in the elections official's office or voted outside the elections official's office on or before the close of the polls on the day of election and returned as are other vote by mail ballots.

SEC. 47. Section 3110 of the Elections Code is amended to read:

3110. If a special absentee voter is unable to appear at his or her polling place because of being recalled to service after the final day for making application for a vote by mail ballot, but before 5 p.m. on the day before the day of election, he or she may appear before the elections official and make application for a vote by mail ballot. The elections official shall deliver to him or her a vote by mail ballot which may be voted in the elections official's office or voted outside the elections official's office on or before the close of the polls on the day of election and returned as are other vote by mail ballots.

SEC. 47.5. Section 3110 of the Elections Code is amended to read:

3110. If a special absentee voter is unable to appear at his or her polling place because of being recalled to service after the final day for making application for a vote by mail ballot, but before 5 p.m. on the day before the day of election, he or she may appear before the elections official in the county in which the special absentee voter is registered or, if within the state, in the county in which he or she is recalled to service and make application for a vote by mail ballot, which may be submitted by facsimile, or by e-mail or online transmission if the elections official makes the transmission option available. The elections official shall deliver to him or her a vote by mail ballot which may be voted in the elections official's office or voted outside the elections official's office on or before the close of the polls on the day of election and returned as are other vote by mail ballots. To be counted, the ballot must be returned to the elections official's office in person, by facsimile transmission, or by an authorized person on or before the close of the polls on the day of the election. If the special absentee voter appears in the county in which he or she is recalled to service, rather than the county to which he or she is registered, the elections official shall coordinate with the elections official in the county in which the special absentee voter is registered to provide the absentee ballot that contains the

appropriate measures and races for the precinct in which the special absentee voter is registered.

SEC. 48. Section 3111 of the Elections Code is amended to read:

3111. Whenever by any statute of the United States, provision is made for vote by mail, an application for a vote by mail ballot made under that law may be given the same effect as an application for a vote by mail ballot made under this code.

If, by any federal statute, provision is made for the transmission of applications for vote by mail status to the Secretary of State, he or she shall transmit the applications to the county elections official of the county in which the applicant claims residence.

SEC. 49. The heading of Chapter 3 (commencing with Section 3200) of Division 3 of the Elections Code is amended to read:

Chapter 3. Permanent Vote by Mail Application and Procedures

SEC. 50. Section 3200 of the Elections Code is amended to read:

3200. A voter who qualifies under this chapter shall be entitled to become a permanent vote by mail voter.

SEC. 51. Section 3201 of the Elections Code is amended to read:

3201. Any voter may apply for permanent vote by mail status. Application for permanent vote by mail status shall be made in accordance with Section 3001, 3100, or 3304. The voter shall complete an application, which shall be available from the county elections official, and which shall contain all of the following:

(a) The applicant's name at length.

(b) The applicant's residence address.

(c) The address where the ballot is to be mailed, if different from the place of residence.

(d) The signature of the applicant.

SEC. 52. Section 3202 of the Elections Code is amended to read:

3202. In lieu of executing the application set forth in Section 3201, any voter may execute a request for permanent vote by mail status by making a written request to the county elections official requesting the status. If a written request is received by the county elections official and it contains the information set forth in Section 3201, the elections official shall process that application in the manner provided in Section 3203.

SEC. 53. Section 3203 of the Elections Code is amended to read:

3203. (a) Upon receipt of an application for permanent vote by mail status, the county elections official shall process the application in the same manner as an application for a vote by mail ballot, or, in the case

of an application made pursuant to Section 3100 or 3304, in the same manner as an application for a special absent voter ballot or overseas ballot.

(b) In addition to processing applications in accordance with Chapter 1 (commencing with Section 3000), if it is determined that the applicant is a registered voter, the county elections official shall do the following:

(1) Place the voter's name upon a list of those to whom a vote by mail ballot is sent each time there is an election within their precinct.

(2) Include in all vote by mail mailings to the voter an explanation of the vote by mail procedure and an explanation of Section 3206.

(3) Maintain a copy of the vote by mail ballot list on file open to public inspection for election and governmental purposes.

SEC. 54. Section 3204 of the Elections Code is amended to read:

3204. The county elections official shall send a copy of the list of all voters who qualify as permanent vote by mail voters to each city elections official or district elections official charged with the duty of conducting an election within the county. The list shall be sent by the sixth day before an election.

SEC. 55. Section 3205 of the Elections Code is amended to read:

3205. (a) Vote by mail ballots mailed to, and received from, voters on the permanent vote by mail voter list are subject to the same deadlines and shall be processed and counted in the same manner as all other vote by mail ballots.

(b) Prior to each primary election, county elections officials shall mail to every voter not affiliated with a political party whose name appears on the permanent vote by mail voter list a notice and application regarding voting in the primary election. The notice shall inform the voter that he or she may request a vote by mail ballot for a particular political party for the primary election, if that political party adopted a party rule, duly noticed to the Secretary of State, authorizing these voters to vote in their primary. The notice shall also contain a toll-free telephone number, established by the Secretary of State, that the voter may call to access information regarding which political parties have adopted such a rule. The application shall contain a checkoff box with a conspicuously printed statement that reads as follows: "I am not presently affiliated with any political party. However, for this primary election only, I request a vote by mail ballot for the ____ Party." The name of the political party shall be personally affixed by the voter.

SEC. 56. Section 3206 of the Elections Code is amended to read:

3206. A voter whose name appears on the permanent vote by mail voter list shall remain on the list and shall be mailed a vote by mail ballot for each election conducted within his or her precinct in which he or she is eligible to vote. If the voter fails to return an executed vote by mail

ballot in two consecutive statewide general elections in accordance with Section 3017 the voter's name shall be deleted from the list.

SEC. 57. Section 3302 of the Elections Code is amended to read:

3302. Each citizen residing outside the United States shall have the right to register for, and to vote by, a vote by mail ballot in any federal election in the state, or in any precinct of the state in which he or she was last domiciled immediately prior to his or her departure from the United States and in which he or she would have met all qualifications to vote in federal elections under the laws of this state, even though while residing outside the United States he or she does not have a place of abode or other address in this state or in a precinct of this state, and his or her intent to return to this state or to a precinct in this state may be uncertain, if the person meets the following requirements:

(a) He or she has complied with all applicable requirements that are consistent with this chapter concerning vote by mail registration for, and voting by, a vote by mail ballot.

(b) He or she does not maintain a domicile, is not registered to vote, and is not voting in any other state or precinct of a state or territory or in any territory or possession of the United States.

(c) He or she has a valid passport or card of identity and registration issued under the authority of the Secretary of State of the United States.

SEC. 58. Section 3303 of the Elections Code is amended to read:

3303. Any person described in Section 3302 who desires to register and vote under this chapter shall apply in writing to the elections official of the county in which the person was last domiciled prior to departure from the United States. When an overseas voter as described in Section 3302 applies for a vote by mail ballot, the application shall be deemed an affidavit of registration and an application for permanent vote by mail status, pursuant to Chapter 3 (commencing with Section 3200).

SEC. 59. Section 3304 of the Elections Code is amended to read:

3304. (a) Any application made pursuant to this chapter that is received by the elections official prior to the 60th day before the election shall be kept and processed on or after the 60th day before the election.

(b) The elections official shall send with the ballot a list of all candidates who have qualified for the ballot by the 60th day before the election and for whom the voter is qualified to vote. The voter shall be entitled to write in the name of any specific candidate seeking the nomination or election to any office listed on the ballot.

(c) Notwithstanding Section 15341 or any other provision of law, any name written upon a ballot for a particular office pursuant to subdivision (b) shall be counted for the office or nomination, providing the candidate whose name is written on the ballot has, as of the date of the election,

qualified to have his or her name placed on the ballot for the office, or has qualified as a write-in candidate for the office.

(d) The elections official shall receive and canvass the vote by mail ballots described in this section under the same procedure as other vote by mail ballots, insofar as that procedure is not inconsistent with this section.

SEC. 60. Section 3305 of the Elections Code is amended to read:

3305. Upon receipt of an application for registration and a vote by mail ballot by a person who meets the requirements of Section 3302, the county elections official shall determine the following:

(a) That the last domicile of the applicant in the United States was in the county to which the person has applied. If the last domicile of the applicant in the United States was in another county, the elections official shall forward the application to that county.

(b) That the applicant is not currently registered. If the applicant is registered as a resident of the county, the elections official shall cancel the affidavit of registration.

SEC. 61. Section 3307 of the Elections Code is amended to read:

3307. (a) As soon as possible after the 60th day before the federal election, the county elections official shall mail or deliver a ballot to each person who has requested registration as an overseas voter since the last regularly scheduled federal election.

(b) The overseas voter shall be informed of the following:

(1) That the affidavit must be correctly completed and returned with the ballot in order for the vote to be tallied.

(2) That the voter's registration is valid, that the voter has permanent vote by mail status, and that the ballots for future elections will be sent to the voter at the mailing address provided by the voter.

(3) The provisions of Section 3206.

(c) Vote by mail voter ballots mailed or delivered pursuant to this section shall be modified pursuant to regulations adopted by the Secretary of State so as to show only those offices for which the overseas resident is entitled to vote.

SEC. 62. Section 3308 of the Elections Code is amended to read:

3308. Upon timely receipt of the application for a vote by mail ballot, the county elections official shall examine the application to ascertain that it is properly executed in accordance with this code. If the county elections official is satisfied of this fact, the applicant shall be deemed a duly registered voter as of the date appearing on the application to the same extent and with the same effect as though he or she had registered in proper time prior to the election.

SEC. 63. Section 3310 of the Elections Code is amended to read:

3310. Applications for the ballots of overseas voters shall be received and their ballots shall be received and canvassed at the same time and under the same procedure as vote by mail voter ballots, insofar as that procedure is not inconsistent with this chapter.

SEC. 64. Section 3311 of the Elections Code is amended to read:

3311. All vote by mail ballots cast pursuant to this chapter shall be received by the county elections official not later than 8 p.m. on the day of a federal election.

SEC. 65. Section 3405 of the Elections Code is amended to read:

3405. The ballots of new residents shall be received and canvassed at the same time and under the same procedure as vote by mail voter ballots, insofar as that procedure is not inconsistent with this chapter.

SEC. 66. Section 3502 of the Elections Code is amended to read:

3502. The ballots of new citizens shall be received and canvassed at the same time and under the same procedure as vote by mail voter ballots, insofar as that procedure is not inconsistent with this chapter.

SEC. 67. Section 10261 of the Elections Code is amended to read:

10261. The city elections official, or a canvassing board appointed by him or her, shall count the votes cast by vote by mail voters. The city elections official or board shall commence this count as soon as the polls close on the day of election, and the count shall continue, for not less than six hours each day providing ballots remain to be counted, until all vote by mail voter ballots have been received within the time provided by law. The result of the vote by mail vote count shall be included with the canvass of returns from the precincts.

The canvassing board, if any, shall be appointed, and the vote by mail vote count shall be conducted in the manner prescribed by Chapter 1 (commencing with Section 15000) of Division 15, insofar as that chapter is not inconsistent with this section.

SEC. 68. Section 10530 of the Elections Code is amended to read:

10530. Vote by mail voting shall be allowed and conducted as nearly as practicable in accordance with Division 3 (commencing with Section 3000) pertaining to general elections, except in those districts in which voting by proxy is allowed unless a particular district shall, by resolution pursuant to Section 4108, provide for an all-mail ballot election.

SEC. 69. Section 10531 of the Elections Code is amended to read:

10531. Notwithstanding any other provision of law, vote by mail voting shall be allowed in lieu of voting by proxy in any landowner district election in which voting by proxy is allowed, provided that, at least 110 days before the election, the governing board of the district adopts this section. If a district adopts this section, the voting shall be conducted as follows:

(a) The vote by mail ballot shall be available to any eligible voter of the district.

(b) The form of application for the ballot shall be distributed to each voter with the sample ballot and shall contain spaces for each of the following:

(1) The printed name and address of the voter.

(2) The address to which the ballot is to be mailed.

(3) The voter's signature.

(4) The authorization of a legal representative, as defined in Section 34030 of the Water Code, to receive the vote by mail voter's ballot if the voter so chooses.

(5) The name and date of the election for which the request is made.

(6) The date the application shall be received by the county elections official, which date shall be at least seven days before the election.

(7) The insertion of the sample ballot name and address label on the application.

(c) Upon receipt of vote by mail ballot application and verification that it has been properly completed, the county elections official shall mail vote by mail voter's ballot to the voter or legal representative with an identification envelope, which shall contain each of the following:

(1) A declaration under penalty of perjury stating that the voter is entitled to vote in the election.

(2) Space for the signature of the voter or legal representative and the date of signing.

(3) A notice that the envelope contains an official ballot and is to be opened only by the appropriate elections officials.

(d) The voting shall be pursuant to those additional procedures, if any, that the county elections official shall deem necessary to the proper conduct of the election, provided that the overall additional procedures shall substantially comply with Division 3 (commencing with Section 3000) and Chapter 1 (commencing with Section 15000) of Division 15, and shall be consistent with landowner voting requirements.

(e) Notwithstanding Section 10525, the list of voters for landowner voting district elections in which vote by mail voting is allowed shall be delivered to the county elections official at least 40 days prior to the election.

(f) The sample ballot for landowner voting district elections in which vote by mail voting is allowed shall be mailed at least 20 days before the election.

SEC. 70. Section 10704 of the Elections Code is amended to read:

10704. (a) A special primary election shall be held in the district in which the vacancy occurred on the eighth Tuesday or, if the eighth Tuesday is the day of or the day following a state holiday, the ninth

Tuesday preceding the day of the special general election at which the vacancy is to be filled. Candidates at the primary election shall be nominated in the manner set forth in Chapter 1 (commencing with Section 8000) of Part 1 of Division 8, except that nomination papers shall not be circulated more than 63 days before the primary election, shall be left with the county elections official for examination not less than 43 days before the primary election, and shall be filed with the Secretary of State not less than 39 days before the primary election.

(b) Notwithstanding Section 3001, applications for vote by mail voter ballots may be submitted not more than 25 days before the primary election, except that Section 3001 shall apply if the special election or special primary election is consolidated with a statewide election. Applications received by the elections official prior to the 25th day shall not be returned to the sender, but shall be held by the elections official and processed by him or her following the 25th day prior to the election in the same manner as if received at that time.

SEC. 71. Section 10734 of the Elections Code is amended to read:

10734. (a) No special primary election shall be held. Candidates at the special general election shall be nominated in the manner set forth in Chapter 1 (commencing with Section 8000) of Part 1 of Division 8, except that nomination papers shall not be circulated more than 46 days before the special general election, shall be left with the county elections official for examination not less than 32 days before the special general election, and shall be filed with the Secretary of State not less than 28 days before the special general election.

(b) Notwithstanding Section 3001, applications for vote by mail voter ballots may be submitted not more than 28 days before the special general election, except that Section 3001 shall apply if the special general election is consolidated with a statewide election. Applications received by the elections official prior to the 28th day shall not be returned to the sender, but shall be held by the elections official and processed by him or her following the 28th day prior to the election in the same manner as if received at that time.

SEC. 72. Section 12309.5 of the Elections Code is amended to read:

12309.5. (a) No later than June 30, 2005, the Secretary of State shall adopt uniform standards for the training of precinct board members, based upon the recommendations of the task force appointed pursuant to subdivision (b). The uniform standards shall, at a minimum, address the following:

(1) The rights of voters, including, but not limited to, language access rights for linguistic minorities, the disabled, and protected classes as referenced and defined in the federal Voting Rights Act (42 U.S.C. Sec. 1973 et seq.).

(2) Election challenge procedures such as challenging precinct administrator misconduct, fraud, bribery, or discriminatory voting procedures as referenced and defined in the federal Voting Rights Act (42 U.S.C. Sec. 1973 et seq.).

(3) Operation of a jurisdiction's voting system, including, but not limited to, modernized voting systems, touch-screen voting, and proper tabulation procedures.

(4) Poll hours and procedures concerning the opening and closing of polling locations on election day. Procedures shall be developed that, notwithstanding long lines or delays at a polling location, ensure that all eligible voters who arrive at the polling location prior to closing time are allowed to cast a ballot.

(5) Relevant election laws and any other subjects that will assist an inspector in carrying out his or her duties.

(6) Cultural competency, including, but not limited to, having adequate knowledge of diverse cultures, including languages, that may be encountered by a poll worker during the course of an election, and the appropriate skills to work with the electorate.

(7) Knowledge regarding issues confronting voters who have disabilities, including, but not limited to, access barriers and the need for reasonable accommodations.

(8) Procedures involved with provisional, fail-safe provisional, vote by mail, and provisional vote by mail voting.

(b) The Secretary of State shall appoint a task force of at least 12 members who have experience in the administration of elections and other relevant backgrounds to study and recommend uniform guidelines for the training of precinct board members. The task force shall consist of the chief elections officer of the two largest counties, the two smallest counties, and two county elections officers selected by the Secretary of State, or their designees. The Secretary of State shall appoint at least six other members who have elections expertise, or their designees, including members of community-based organizations that may include citizens familiar with different ethnic, cultural, and disabled populations to ensure that the task force is representative of the state's diverse electorate. The task force shall make its recommendations available for public review and comment prior to the submission of the recommendations to the Secretary of State and the Legislature.

(c) The task force shall file its recommendations with the Secretary of State and the Legislature no later than January 1, 2005.

SEC. 73. Section 13204 of the Elections Code is amended to read:

13204. (a) The instructions to voters shall be printed at least three-eighths of an inch below the district designation. The instructions shall begin with the words "INSTRUCTIONS TO VOTERS:" in no

smaller than 16-point gothic condensed capital type. Thereafter, there shall be printed in 10-point gothic condensed capital type all of the following directions that are applicable to the ballot:

"To vote for a candidate for Chief Justice of California; Associate Justice of the Supreme Court; Presiding Justice, Court of Appeal; or Associate Justice, Court of Appeal, stamp a cross (+) in the voting square after the word "Yes," to the right of the name of the candidate. To vote against that candidate, stamp a cross (+) in the voting square after the word "No," to the right of the name of that candidate."

"To vote for any other candidate of your selection, stamp a cross (+) in the voting square to the right of the candidate's name. [When justices of the Supreme Court or Court of Appeal do not appear on the ballot, the instructions referring to voting after the word "Yes" or the word "No" will be deleted and the above sentence shall read: "To vote for a candidate whose name appears on the ballot, stamp a cross (+) in the voting square to the right of the candidate's name."] Where two or more candidates for the same office are to be elected, stamp a cross (+) after the names of all candidates for the office for whom you desire to vote, not to exceed, however, the number of candidates to be elected."

"To vote for a qualified write-in candidate, write the person's name in the blank space provided for that purpose after the names of the other candidates for the same office."

"To vote on any measure, stamp a cross (+) in the voting square after the word "Yes" or after the word "No."

"All distinguishing marks or erasures are forbidden and make the ballot void."

"If you wrongly stamp, tear, or deface this ballot, return it to the precinct board member and obtain another."

"On vote by mail ballots mark a cross (+) with pen or pencil."

(b) The instructions to voters shall be separated by no smaller than a 2-point rule from the portion of the ballot which contains the various offices and measures to be voted on.

SEC. 74. Section 13216 of the Elections Code is amended to read:

13216. (a) On each ballot a horizontal non-solid-ruled line shall extend across the top of the ballot one inch below the horizontal perforated line. The same number appearing on the stub shall be printed above the horizontal, non-solid-ruled line within two inches of the left side of the ballot. Above this number shall be printed in parentheses in small type as follows: "(This number shall be torn off by a precinct board member and handed to the voter.)". The words "I HAVE VOTED—HAVE YOU?" may also be printed immediately above or below the number.

(b) (1) One-half inch to the right of the ballot number there shall be a short vertical perforated rule or line extending upward from the horizontal non-solid-ruled line to the horizontal perforated line. Immediately above this horizontal non-solid-ruled line shall be printed in boldface lowercase type, at least 12-point in size, and enclosed in parentheses, the following: "Fold ballot to this line leaving top margin exposed."

(2) Above this printed direction and midway between it and the top edge of the ballot shall be printed in boldface uppercase type, at least 12-point in size, with the four middle words underlined or otherwise made prominent, the following: "Mark crosses (+) on ballot ONLY WITH RUBBER STAMP; never with pen or pencil."

(3) Below this direction and midway between it and the next line shall be printed in boldface uppercase type, at least 12-point in size, enclosed in parentheses and with the first four and last five words underlined or otherwise made prominent, the following: "(VOTE BY MAIL BALLOTS MAY BE MARKED WITH PEN AND INK OR PENCIL.)"

SEC. 75. Section 13266 of the Elections Code is amended to read:

13266. If punchcard ballots are used for vote by mail voting, the ballots shall be marked by pencil, or by a marking device that enables the voter to register his or her vote by punching or slotting the ballot card. Counting of punchcard ballots marked by pencil may be as with paper ballots, or a true duplicate copy of each ballot may be prepared using the same procedure as provided by Section 15271. Vote by mail voter ballots so prepared shall be counted by the counting device.

SEC. 76. Section 13267 of the Elections Code is amended to read:

13267. If an official ballot consisting of one or more individual ballot cards upon which the names of candidates and measures are printed is used for vote by mail voting, the two stubs specified in Section 13261 may be eliminated from the ballot cards by printing a group style number on each card and by printing the information required by subparagraphs (C), (D), (E), (F), and (G) of paragraph (2) of subdivision (b) of Section 13261 on a separate form accompanying the official ballot. If the two stubs are not eliminated, the language required by subparagraph (B) of paragraph (2) of subdivision (b) of Section 13261 to be printed on the second stub may be omitted.

SEC. 77. Section 13315 of the Elections Code is amended to read:

13315. The officer charged with the duty of providing sample ballots for any election at which vote by mail voter ballots may be cast shall cause to be printed on the envelope containing the sample ballot in heavy-faced gothic type, not smaller than 12-point, the following:

Notice: Vote By Mail Ballot Application Enclosed.

SEC. 78. Section 13316 of the Elections Code is amended to read:

13316. Notwithstanding any other provision of law to the contrary, a county, city, city and county, or district using voting machines may use reasonable facsimiles of the sample ballots sent to the voters of the local jurisdiction as vote by mail ballots.

SEC. 79. Section 13317 of the Elections Code is amended to read:

13317. Notwithstanding any other provision of law to the contrary, a county, city, city and county, or district using vote tabulating devices may use reasonable facsimiles of the sample ballots sent to the voters of the local jurisdiction as vote by mail ballots.

SEC. 80. Section 14102 of the Elections Code is amended to read:

14102. (a) (1) For each statewide election, the elections official shall provide a sufficient number of official ballots in each precinct to reasonably meet the needs of the voters in that precinct on election day using the precinct's voter turnout history as the criterion, but in no case shall this number be less than 75 percent of registered voters in the precinct, and for vote by mail and emergency purposes shall provide the additional number of ballots that may be necessary.

(2) The number of party ballots to be furnished to any precinct for a primary election shall be computed from the number of voters registered in that precinct as intending to affiliate with a party, and the number of nonpartisan ballots to be furnished to any precinct shall be computed from the number of voters registered in that precinct without statement of intention to affiliate with any of the parties participating in the primary election.

(b) For all other elections, the elections official shall provide a sufficient number of official ballots in each precinct to reasonably meet the needs of the voters in that precinct on election day, using the precinct's voter turnout history as the criterion, but in no case shall this number be less than 75 percent of the number of registered voters in the precinct, and for vote by mail and emergency purposes shall provide the additional number of ballots that may be necessary.

SEC. 81. Section 14245 of the Elections Code is amended to read:

14245. If the challenge is on the ground that the person challenged has already cast a ballot for this election, a member of the precinct board shall tender to the person challenged this oath:

"You do swear (or affirm) that you have not previously voted in this election, either by vote by mail ballot or at a polling place."

SEC. 82. Section 14282 of the Elections Code is amended to read:

14282. (a) When a voter declares under oath, administered by any member of the precinct board at the time the voter appears at the polling place to vote, that the voter is then unable to mark a ballot, the voter shall receive the assistance of not more than two persons selected by the

voter, other than the voter's employer, an agent of the voter's employer, or an officer or agent of the union of which the voter is a member.

(b) No person assisting a voter shall divulge any information regarding the marking of the ballot.

(c) In those polling places that are inaccessible under the guidelines promulgated by the Secretary of State for accessibility by the physically handicapped, a physically handicapped person may appear outside the polling place and vote a regular ballot. The person may vote the ballot in a place that is as near as possible to the polling place and that is accessible to the physically handicapped. A precinct board member shall take a regular ballot to that person, qualify that person to vote, and return the voted ballot to the polling place. In those precincts in which it is impractical to vote a regular ballot outside the polling place, vote by mail ballots shall be provided in sufficient numbers to accommodate physically handicapped persons who present themselves on election day. The vote by mail ballot shall be presented to and voted by a physically handicapped person in the same manner as a regular ballot may be voted by that person outside the polling place.

SEC. 83. Section 14284 of the Elections Code is amended to read:

14284. (a) All ballots, except vote by mail voter ballots, shall be marked only with the marking device provided by law.

(b) To prevent voters from marking their ballots with a pen or pencil, at the time of delivering a ballot to a voter, the precinct officer shall distinctly state that the voter shall mark the ballot with the device provided by law or the ballot will not be counted.

SEC. 84. Section 14310 of the Elections Code is amended to read:

14310. (a) At all elections, a voter claiming to be properly registered but whose qualification or entitlement to vote cannot be immediately established upon examination of the index of registration for the precinct or upon examination of the records on file with the county elections official, shall be entitled to vote a provisional ballot as follows:

(1) An elections official shall advise the voter of the voter's right to cast a provisional ballot.

(2) The voter shall be provided a provisional ballot, written instructions regarding the process and procedures for casting the provisional ballot, and a written affirmation regarding the voter's registration and eligibility to vote. The written instructions shall include the information set forth in subdivisions (c) and (d).

(3) The voter shall be required to execute, in the presence of an elections official, the written affirmation stating that the voter is eligible to vote and registered in the county where the voter desires to vote.

(b) Once voted, the voter's ballot shall be sealed in a provisional ballot envelope, and the ballot in its envelope shall be deposited in the

ballot box. All provisional ballots voted shall remain sealed in their envelopes for return to the elections official in accordance with the elections official's instructions. The provisional ballot envelopes specified in this subdivision shall be a color different than the color of, but printed substantially similar to, the envelopes used for vote by mail ballots, and shall be completed in the same manner as vote by mail envelopes.

(c) (1) During the official canvass, the elections official shall examine the records with respect to all provisional ballots cast. Using the procedures that apply to the comparison of signatures on vote by mail ballots, the elections official shall compare the signature on each provisional ballot envelope with the signature on the voter's affidavit of registration. If the signatures do not compare, the ballot shall be rejected. A variation of the signature caused by the substitution of initials for the first or middle name, or both, shall not invalidate the ballot.

(2) Provisional ballots shall not be included in any semiofficial or official canvass, except upon: (A) the elections official's establishing prior to the completion of the official canvass, from the records in his or her office, the claimant's right to vote; or (B) the order of a superior court in the county of the voter's residence. A voter may seek the court order specified in this paragraph regarding his or her own ballot at any time prior to completion of the official canvass. Any judicial action or appeal shall have priority over all other civil matters.

(3) The provisional ballot of a voter who is otherwise entitled to vote shall not be rejected because the voter did not cast his or her ballot in the precinct to which he or she was assigned by the elections official.

(A) If the ballot cast by the voter contains the same candidates and measures on which the voter would have been entitled to vote in his or her assigned precinct, the elections official shall count the votes for the entire ballot.

(B) If the ballot cast by the voter contains candidates or measures on which the voter would not have been entitled to vote in his or her assigned precinct, the elections official shall count only the votes for the candidates and measures on which the voter was entitled to vote in his or her assigned precinct.

(d) The Secretary of State shall establish a free access system that any voter who casts a provisional ballot may access to discover whether the voter's provisional ballot was counted and, if not, the reason why it was not counted.

(e) The Secretary of State may adopt appropriate regulations for purposes of ensuring the uniform application of this section.

(f) This section shall apply to any vote by mail voter described by Section 3015 who is unable to surrender his or her unvoted vote by mail voter's ballot.

(g) Any existing supply of envelopes marked "special challenged ballot" may be used until the supply is exhausted.

SEC. 84.5. Section 14310 of the Elections Code is amended to read:

14310. (a) At all elections, a voter claiming to be properly registered but whose qualification or entitlement to vote cannot be immediately established upon examination of the index of registration for the precinct or upon examination of the records on file with the county elections official, shall be entitled to vote a provisional ballot as follows:

(1) An elections official shall advise the voter of the voter's right to cast a provisional ballot.

(2) The voter shall be provided a provisional ballot, written instructions regarding the process and procedures for casting the provisional ballot, and a written affirmation regarding the voter's registration and eligibility to vote. The written instructions shall include the information set forth in subdivisions (c) and (d).

(3) The voter shall be required to execute, in the presence of an elections official, the written affirmation stating that the voter is eligible to vote and registered in the county where the voter desires to vote.

(b) Once voted, the voter's ballot shall be sealed in a provisional ballot envelope, and the ballot in its envelope shall be deposited in the ballot box. All provisional ballots voted shall remain sealed in their envelopes for return to the elections official in accordance with the elections official's instructions. The provisional ballot envelopes specified in this subdivision shall be a color different than the color of, but printed substantially similar to, the envelopes used for vote by mail ballots, and shall be completed in the same manner as vote by mail envelopes.

(c) (1) During the official canvass, the elections official shall examine the records with respect to all provisional ballots cast. Using the procedures that apply to the comparison of signatures on vote by mail ballots, the elections official shall compare the signature on each provisional ballot envelope with the signature on the voter's affidavit of registration. If the signatures do not compare, the ballot shall be rejected. A variation of the signature caused by the substitution of initials for the first or middle name, or both, shall not invalidate the ballot.

(2) Provisional ballots shall not be included in any semiofficial or official canvass, except upon: (A) the elections official's establishing prior to the completion of the official canvass, from the records in his or her office, the claimant's right to vote; or (B) the order of a superior court in the county of the voter's residence. A voter may seek the court order specified in this paragraph regarding his or her own ballot at any time prior to completion of the official canvass. Any judicial action or appeal shall have priority over all other civil matters. No fee shall be

charged to the claimant by the clerk of the court for services rendered in an action under this section.

(3) The provisional ballot of a voter who is otherwise entitled to vote shall not be rejected because the voter did not cast his or her ballot in the precinct to which he or she was assigned by the elections official.

(A) If the ballot cast by the voter contains the same candidates and measures on which the voter would have been entitled to vote in his or her assigned precinct, the elections official shall count the votes for the entire ballot.

(B) If the ballot cast by the voter contains candidates or measures on which the voter would not have been entitled to vote in his or her assigned precinct, the elections official shall count only the votes for the candidates and measures on which the voter was entitled to vote in his or her assigned precinct.

(d) The Secretary of State shall establish a free access system that any voter who casts a provisional ballot may access to discover whether the voter's provisional ballot was counted and, if not, the reason why it was not counted.

(e) The Secretary of State may adopt appropriate regulations for purposes of ensuring the uniform application of this section.

(f) This section shall apply to any vote by mail voter described by Section 3015 who is unable to surrender his or her unvoted vote by mail voter's ballot.

(g) Any existing supply of envelopes marked "special challenged ballot" may be used until the supply is exhausted.

SEC. 85. The heading of Chapter 2 (commencing with Section 15100) of Division 15 of the Elections Code is amended to read:

CHAPTER 2. VOTE BY MAIL BALLOT PROCESSING

SEC. 86. Section 15100 of the Elections Code is amended to read:

15100. The provisions of this chapter apply to the processing of vote by mail ballots during the 29-day period before any election, during the semifinal official canvass, and during the official canvass.

SEC. 87. Section 15101 of the Elections Code is amended to read:

15101. (a) Any jurisdiction in which vote by mail ballots are cast may begin to process vote by mail ballot return envelopes beginning 29 days before the election. Processing vote by mail ballot return envelopes may include verifying the voter's signature on the vote by mail ballot return envelope and updating voter history records.

(b) Any jurisdiction having the necessary computer capability may start to process vote by mail ballots on the seventh business day prior to the election. Processing vote by mail ballots includes opening vote by

mail ballot return envelopes, removing ballots, duplicating any damaged ballots, and preparing the ballots to be machine read, or machine reading them, but under no circumstances may a vote count be accessed or released until 8 p.m. on the day of the election. All other jurisdictions shall start to process vote by mail ballots at 5 p.m. on the day before the election.

(c) Results of any vote by mail ballot tabulation or count shall not be released prior to the close of the polls on the day of the election.

SEC. 88. Section 15102 of the Elections Code is amended to read:

15102. The official shall appoint a special counting board or boards in numbers that he or she deems adequate to count the vote by mail ballots. The official shall provide for the forms of tally books and the distribution of the duties of the members of the canvassing board.

When the tally is done by hand, there shall be no less than four persons for each office or proposition to be counted. One shall read from the ballot, the second shall keep watch for any error or improper vote, and the other two shall keep the tally.

SEC. 89. Section 15103 of the Elections Code is amended to read:

15103. The elections official shall pay a reasonable compensation to each member of the canvassing board of vote by mail ballots. This compensation shall be paid out of the treasury of the agency conducting the election as other claims against it are paid.

SEC. 90. Section 15104 of the Elections Code is amended to read:

15104. (a) The processing of vote by mail ballot return envelopes, and the processing and counting of vote by mail ballots shall be open to the public, both prior to and after the election.

(b) Any member of the county grand jury, and at least one member each of the Republican county central committee, the Democratic county central committee, and of any other party with a candidate on the ballot, and any other interested organization, shall be permitted to observe and challenge the manner in which the vote by mail ballots are handled, from the processing of vote by mail ballot return envelopes through the counting and disposition of the ballots.

(c) The elections official shall notify vote by mail voter observers and the public at least 48 hours in advance of the dates, times, and places where vote by mail ballots will be processed and counted.

(d) Vote by mail voter observers shall be allowed sufficiently close access to enable them to observe and challenge whether those individuals handling vote by mail ballots are following established procedures, including all of the following:

(1) Verifying signatures and addresses by comparing them to voter registration information.

(2) Duplicating accurately any damaged or defective ballots.

(3) Securing vote by mail ballots to prevent any tampering with them before they are counted on election day.

(e) No vote by mail voter observer shall interfere with the orderly processing of vote by mail ballot return envelopes or the processing and counting of vote by mail ballots, including the touching or handling of the ballots.

SEC. 91. Section 15105 of the Elections Code is amended to read:

15105. Prior to processing and opening the identification envelopes of vote by mail voters, the elections official shall make available a list of vote by mail voters for public inspection, from which challenges may be presented. Challenges may be made for the same reasons as those made against a voter voting at a polling place. In addition, a challenge may be entered on the grounds that the ballot was not received within the time provided by this code or that a person is imprisoned for a conviction of a felony. All challenges shall be made prior to the opening of the identification envelope of the challenged vote by mail voter.

SEC. 92. Section 15106 of the Elections Code is amended to read:

15106. Except as otherwise provided, the processing of vote by mail ballot return envelopes, the processing and counting of vote by mail ballots, and the disposition of challenges of vote by mail ballots shall be according to the laws now in force pertaining to the election for which they are cast. Because the voter is not present, the challenger shall have the burden of establishing extraordinary proof of the validity of the challenge at the time the challenge is made.

SEC. 93. Section 15109 of the Elections Code is amended to read:

15109. Except as otherwise provided in this chapter, the counting and canvassing of vote by mail ballots shall be conducted in the same manner and under the same regulations as used for ballots cast in a precinct polling place.

SEC. 94. Section 15110 of the Elections Code is amended to read:

15110. Reports to the Secretary of State of the findings of the canvass of vote by mail ballots shall be made by the elections official pursuant to Chapter 3 (commencing with Section 15150) and Chapter 4 (commencing with Section 15300).

SEC. 95. Section 15111 of the Elections Code is amended to read:

15111. The elections official shall keep an accurate list of all voters who have received and voted a vote by mail ballot at each election and compare this list with the roster of voters as provided in Section 15278. That list shall include the election precinct of the voter.

SEC. 96. Section 15112 of the Elections Code is amended to read:

15112. When elections are consolidated pursuant to Division 10 (commencing with Section 10000), and only one form of ballot is used at the consolidated election, the ballots cast by vote by mail voters shall

be counted only in connection with elections to which vote by mail voter privileges have been extended by law.

Whenever the period of time within which vote by mail voters' ballots shall be received by the elections official in order to be counted, as provided for any election by this code or any other law of this state, is different from that period of time provided for another election, and the elections are consolidated and only one form of ballot used for both elections, all vote by mail voters' ballots issued for the consolidated election may be counted for both elections if received by the elections official within whichever period of time is longer.

SEC. 97. Section 15150 of the Elections Code is amended to read:

15150. For every election, the elections official shall conduct a semifinal official canvass by tabulating vote by mail and precinct ballots and compiling the results. The semifinal official canvass shall commence immediately upon the close of the polls and shall continue without adjournment until all precincts are accounted for.

SEC. 98. Section 15211 of the Elections Code is amended to read:

15211. If paper ballots are used for vote by mail voting, the canvass may be conducted in accordance with Chapter 1 (commencing with Section 15000), or the elections official may have a true duplicate copy of vote by mail voter paper ballots made on punchcard ballots that shall be verified in the presence of witnesses. After verification the punchcard ballots shall be counted in the same manner as other punchcard ballots.

SEC. 99. Section 15212 of the Elections Code is amended to read:

15212. If voting at all precincts within a county is not conducted using the same voting system, the result as to the precincts not subject to this article shall be determined in accordance with other provisions of this code and the result of the vote at precincts subject to this article shall be determined as provided in this article. The statement of the vote in that case shall represent the consolidation of all the results and the results of the canvass of all vote by mail voter ballots.

SEC. 100. Section 15278 of the Elections Code is amended to read:

15278. On completion of the canvass of the returns for each election, the elections official shall compare the vote by mail voters' list with the roster of voters in each precinct to determine if any voter cast more than one ballot at that election.

SEC. 101. Section 15302 of the Elections Code is amended to read:

15302. The official canvass shall include, but not be limited to, the following tasks:

(a) An inspection of all materials and supplies returned by poll workers.

(b) A reconciliation of the number of signatures on the roster with the number of ballots recorded on the ballot statement.

(c) In the event of a discrepancy in the reconciliation required by subdivision (b), the number of ballots received from each polling place shall be reconciled with the number of ballots cast, as indicated on the ballot statement.

(d) A reconciliation of the number of ballots counted, spoiled, canceled, or invalidated due to identifying marks, overvotes, or as otherwise provided by statute, with the number of votes recorded, including vote by mail and provisional ballots, by the vote counting system.

(e) Processing and counting any valid vote by mail and provisional ballots not included in the semifinal official canvass.

(f) Counting any valid write-in votes.

(g) Reproducing any damaged ballots, if necessary.

(h) Reporting final results to the governing board and the Secretary of State, as required.

SEC. 102. The heading of Article 2 (commencing with Section 15320) of Chapter 4 of Division 15 of the Elections Code is amended to read:

Article 2. Processing Vote by Mail Ballots and Mail Ballot Precinct Ballots

SEC. 103. Section 15320 of the Elections Code is amended to read:

15320. Vote by mail ballots and mail ballot precinct ballots returned to the elections office and to the polls on election day that are not included in the semifinal official canvass phase of the election shall be processed and counted during the official canvass in the manner prescribed by Chapter 3 (commencing with Section 15100).

SEC. 103.5. Section 15320 of the Elections Code is amended to read:

15320. Vote by mail ballots and mail ballot precinct ballots returned to the elections office and to the polls on election day, including those returned to another jurisdiction in the state and forwarded to the jurisdiction of issuance, that are not included in the semifinal official canvass phase of the election shall be processed and counted during the official canvass in the manner prescribed by Chapter 3 (commencing with Section 15100).

SEC. 104. Section 15321 of the Elections Code is amended to read:

15321. For any statewide election or special election to fill a vacancy in a congressional or legislative office, votes cast by vote by mail ballot and votes cast at the polling place shall be tabulated by precinct.

SEC. 105. Section 15360 of the Elections Code is amended to read:

15360. (a) During the official canvass of every election in which a voting system is used, the official conducting the election shall conduct a public manual tally of the ballots tabulated by those devices, including

vote by mail voters' ballots, cast in 1 percent of the precincts chosen at random by the elections official. If 1 percent of the precincts is less than one whole precinct, the tally shall be conducted in one precinct chosen at random by the elections official.

In addition to the 1 percent manual tally, the elections official shall, for each race not included in the initial group of precincts, count one additional precinct. The manual tally shall apply only to the race not previously counted.

Additional precincts for the manual tally may be selected at the discretion of the elections official.

(b) If vote by mail ballots are cast on a direct recording electronic voting system at the office of an elections official or at a satellite location of the office of an elections official pursuant to Section 3018, the official conducting the election shall either include those ballots in the manual tally conducted pursuant to subdivision (a) or conduct a public manual tally of those ballots cast on no fewer than 1 percent of all the direct recording electronic voting machines used in that election chosen at random by the elections official.

(c) The elections official shall use either a random number generator or other method specified in regulations that shall be adopted by the Secretary of State to randomly choose the initial precincts or direct recording electronic voting machines subject to the public manual tally.

(d) The manual tally shall be a public process, with the official conducting the election providing at least a five-day public notice of the time and place of the manual tally and of the time and place of the selection of the precincts to be tallied prior to conducting the tally and selection.

(e) The official conducting the election shall include a report on the results of the 1 percent manual tally in the certification of the official canvass of the vote. This report shall identify any discrepancies between the machine count and the manual tally and a description of how each of these discrepancies was resolved. In resolving any discrepancy involving a vote recorded by means of a punchcard voting system or by electronic or electromechanical vote tabulating devices, the voter verified paper audit trail shall govern if there is a discrepancy between it and the electronic record.

SEC. 106. Section 15601 of the Elections Code is amended to read:

15601. The Secretary of State, within the Secretary of State's existing budget, shall adopt regulations no later than January 1, 2008, for each voting system approved for use in the state and specify the procedures for recounting ballots, including vote by mail and provisional ballots, using those voting systems.

SEC. 107. Section 17301 of the Elections Code is amended to read:

17301. (a) The following provisions shall apply to those elections where candidates for one or more of the following offices are voted upon: President, Vice President, United States Senator, and United States Representative.

(b) The packages containing the following ballots and identification envelope shall be kept by the elections official, unopened and unaltered, for 22 months from the date of the election:

(1) Voted polling place ballots.

(2) Paper record copies, as defined by Section 19251, if any, of voted polling place ballots.

(3) Voted vote by mail voter ballots.

(4) Vote by mail voter identification envelopes.

(5) Spoiled ballots.

(6) Canceled ballots.

(7) Unused vote by mail ballots surrendered by the voter pursuant to Section 3015.

(8) Ballot receipts.

(c) If a contest is not commenced within the 22-month period, or if a criminal prosecution involving fraudulent use, marking or falsification of ballots, or forgery of vote by mail voters' signatures is not commenced within the 22-month period, either of which may involve the vote of the precinct from which voted ballots were received, the elections official shall have the ballots destroyed or recycled. The packages shall otherwise remain unopened until the ballots are destroyed or recycled.

SEC. 108. Section 17302 of the Elections Code is amended to read:

17302. (a) The following provisions shall apply to all state or local elections not provided for in subdivision (a) of Section 17301. An election is not deemed a state or local election if votes for candidates for federal office may be cast on the same ballot as votes for candidates for state or local office.

(b) The packages containing the following ballots and identification envelopes shall be kept by the elections official, unopened and unaltered, for six months from the date of the election:

(1) Voted polling place ballots.

(2) Paper record copies, as defined by Section 19251, if any, of voted polling place ballots.

(3) Voted vote by mail voter ballots.

(4) Vote by mail voter identification envelopes.

(5) Spoiled ballots.

(6) Canceled ballots.

(7) Unused vote by mail ballots surrendered by the voter pursuant to Section 3015.

(8) Ballot receipts.

(c) If a contest is not commenced within the six-month period, or if a criminal prosecution involving fraudulent use, marking or falsification of ballots, or forgery of vote by mail voters' signatures is not commenced within the six-month period, either of which may involve the vote of the precinct from which voted ballots were received, the elections official shall have the packages destroyed or recycled. The packages shall otherwise remain unopened until the ballots are destroyed or recycled.

SEC. 109. Section 17303 of the Elections Code is amended to read:

17303. (a) The following provisions shall apply to those elections where candidates for one or more of the following offices are voted upon: President, Vice President, United States Senator, and United States Representative.

(b) The elections official shall preserve the package or packages containing the following items for a period of 22 months:

(1) Two tally sheets.

(2) The copy of the index used as the voting record.

(3) The challenge lists.

(4) The assisted voters' list.

(c) All voters may inspect the contents of the package or packages at all times following commencement of the official canvass of the votes.

(d) If a contest is not commenced within the 22-month period, or if a criminal prosecution involving fraudulent use, marking, or falsification of ballots, or forgery of vote by mail voters' signatures is not commenced within the 22-month period, either of which may involve the vote of the precinct from which voted ballots were received, the elections official may have the packages destroyed or recycled.

SEC. 110. Section 17304 of the Elections Code is amended to read:

17304. (a) The following provisions shall apply to all state or local elections not provided for in subdivision (a) of Section 17303. An election is not deemed a state or local election if votes for candidates for federal office may be cast on the same ballot as votes for candidates for state or local office.

(b) The elections official shall preserve the package or packages containing the following items for a period of six months:

(1) Two tally sheets.

(2) The copy of the index used as the voting record.

(3) The challenge lists.

(4) The assisted voters' list.

(c) All voters may inspect the contents of the package or packages at all times following commencement of the official canvass of the votes, except that items that contain signatures of voters may not be copied or distributed.

(d) If a contest is not commenced within the six-month period, or if a criminal prosecution involving fraudulent use, marking or falsification of ballots, or forgery of vote by mail voters' signatures is not commenced within the six-month period, either of which may involve the vote of the precinct from which voted ballots were received, the elections official may have the packages destroyed or recycled.

SEC. 111. Section 17504 of the Elections Code is amended to read:

17504. (a) The following provisions apply to those elections where candidates for one or more of the following offices are voted upon: President of the United States, Vice President of the United States, United States Senator, and United States Representative.

(b) The elections official shall preserve all applications for vote by mail ballots for a period of 22 months from the date of the election.

SEC. 112. Section 17505 of the Elections Code is amended to read:

17505. (a) The following provisions apply to all state or local elections not provided for in subdivision (a) of Section 17504. An election is not deemed a state or local election if votes for candidates for federal office may be cast on the same ballot as votes for candidates for state or local office.

(b) The elections official shall preserve all applications for vote by mail ballots for a period of six months from the date of the election.

SEC. 113. Section 18371 of the Elections Code is amended to read:

18371. (a) No candidate or representative of a candidate, and no proponent, opponent, or representative of a proponent or opponent, of an initiative, referendum, or recall measure, or of a charter amendment, shall solicit the vote of a vote by mail voter, or do any electioneering, while in the residence or in the immediate presence of the voter, and during the time he or she knows the vote by mail voter is voting.

(b) Any person who knowingly violates this section is guilty of a misdemeanor.

(c) This section shall not be construed to conflict with any provision of the federal Voting Rights Act of 1965, as amended, nor to preclude electioneering by mail or telephone or in public places, except as prohibited by Section 18370, or by any other provision of law.

SEC. 114. Section 18402 of the Elections Code is amended to read:

18402. Any individual, group, or organization that knowingly distributes any application for a vote by mail ballot that does not conform to Chapter 1 (commencing with Section 3000) of Division 3 is guilty of a misdemeanor.

SEC. 115. Section 18403 of the Elections Code is amended to read:

18403. Any person other than an elections official or a member of the precinct board who receives a voted ballot from a voter or who examines or solicits the voter to show his or her voted ballot is punishable

by a fine not exceeding ten thousand dollars ($10,000), by imprisonment in the state prison for 16 months or two or three years or in a county jail not exceeding one year, or by both the fine and imprisonment. This section shall not apply to persons returning a vote by mail ballot pursuant to Sections 3017 and 3021 or persons assisting a voter pursuant to Section 14282.

SEC. 116. Section 18576 of the Elections Code is amended to read:

18576. Any person who willfully (a) interferes with the prompt delivery of a completed vote by mail ballot application, (b) retains a completed vote by mail ballot application, without the voter's authorization, for more than three days excluding weekends and state holidays, or by the deadline for return of vote by mail ballot applications, whichever is earlier, or (c) denies an applicant the right to return his or her own completed vote by mail ballot application to the local elections official having jurisdiction over the election, is guilty of a misdemeanor.

SEC. 117. Section 18577 of the Elections Code is amended to read:

18577. Any person having charge of a completed vote by mail ballot who willfully interferes or causes interference with its return to the local elections official having jurisdiction over the election is guilty of a misdemeanor punishable by imprisonment in the county jail not exceeding six months, by a fine not exceeding ten thousand dollars ($10,000), or by both the fine and imprisonment.

SEC. 118. Section 18578 of the Elections Code is amended to read:

18578. Any person who applies for, or who votes or attempts to vote, a vote by mail ballot by fraudulently signing the name of a fictitious person, or of a regularly qualified voter, or of a person who is not qualified to vote, is guilty of a felony punishable by imprisonment in the state prison for 16 months or two or three years, by a fine not exceeding one thousand dollars ($1,000), or by both the fine and imprisonment.

SEC. 119. Section 19229.5 of the Elections Code is amended to read:

19229.5. This article does not apply to voting by vote by mail ballot.

SEC. 120. Section 21000 of the Elections Code is amended to read:

21000. The county elections official in each county shall compile and make available to the Legislature or any appropriate committee of the Legislature any information and statistics that may be necessary for use in connection with the reapportionment of legislative districts, including, but not limited to, precinct maps indicating the boundaries of municipalities, school districts, judicial districts, Assembly districts, senatorial districts and congressional districts, lists showing the election returns for each precinct, and election returns for each precinct reflecting the vote total for all ballots cast, including both vote by mail ballots and ballots cast at polling places, compiled pursuant to subdivision (a) of

Section 15321 in the county at each statewide election. If the county elections official stores the information and statistics in data-processing files, he or she shall make the files available, along with whatever documentation shall be necessary in order to allow the use of the files by the appropriate committee of the Legislature and shall retain these files until the next reapportionment has been completed.

Each precinct shall be identified according to the census tract or enumeration district in which it is located. When a precinct is divided among two or more census tracts or enumeration districts, the county elections official shall include an estimate of the proportion of the precinct's registered voters in each census tract or enumeration district. If the United States Census Bureau divides or alters any census tract or enumeration district between the time of an election and the census upon which the reapportionment is based, the county elections official shall provide whatever corrections or additional information may be necessary to reflect those changes.

SEC. 121. Section 8211 of the Government Code is amended to read:

8211. Fees charged by a notary public for the following services shall not exceed the fees prescribed by this section.

(a) For taking an acknowledgment or proof of a deed, or other instrument, to include the seal and the writing of the certificate, the sum of ten dollars ($10) for each signature taken.

(b) For administering an oath or affirmation to one person and executing the jurat, including the seal, the sum of ten dollars ($10).

(c) For all services rendered in connection with the taking of any deposition, the sum of twenty dollars ($20), and in addition thereto, the sum of five dollars ($5) for administering the oath to the witness and the sum of five dollars ($5) for the certificate to the deposition.

(d) For every protest for the nonpayment of a promissory note or for the nonpayment or nonacceptance of a bill of exchange, draft, or check, the sum of ten dollars ($10).

(e) For serving every notice of nonpayment of a promissory note or of nonpayment or nonacceptance of a bill of exchange, order, draft, or check, the sum of five dollars ($5).

(f) For recording every protest, the sum of five dollars ($5).

(g) No fee may be charged to notarize signatures on vote by mail ballot identification envelopes or other voting materials.

(h) For certifying a copy of a power of attorney under Section 4307 of the Probate Code the sum of ten dollars ($10).

(i) In accordance with Section 6107, no fee may be charged to a United States military veteran for notarization of an application or a claim for a pension, allotment, allowance, compensation, insurance, or any other veteran's benefit.

SEC. 122. Section 2288 of the Revenue and Taxation Code is amended to read:

2288. A maximum property tax rate election held by a local agency formed under a law that does not provide a procedure for elections shall be conducted by the county elections official, as follows:

(a) The election shall be held not less than 74 days nor more than 120 days following the call of the election by the governing body of the local agency. The call of the election shall specify whether the election shall be by mailed ballots or not.

(b) Not less than 15 days nor more than 30 days before the election, the county elections official shall compile the index of voters eligible to vote in the election as of the 30th day preceding the election, establish the election board, precinct boards, and precincts, as needed, and mail out the ballots or sample ballots.

(c) Except as provided herein, an election subject to this section shall be called, conducted, and canvassed as provided in the Elections Code for the calling, conducting, and canvassing of general elections.

(d) The local agency shall reimburse the county in full for the services performed by the county clerk upon presentation of a bill to the local agency.

(e) If the governing body of a local agency authorizes the use of mailed ballots pursuant to Section 2287, the procedure to be used in mailing and canvassing the ballots shall be the procedure prescribed in Chapter 1 (commencing with Section 3000) of Division 3 and in Chapter 1 (commencing with Section 15000) of Division 15 of the Elections Code for the mailing and canvassing of vote by mail ballots. However, a ballot shall be mailed to each qualified voter and an application for a ballot shall not be required.

SEC. 123. Elections officials may use all existing election supplies, election materials, and voting information that refer to voting by absentee ballot, including, but not limited to, absentee ballots, envelopes, and instructions before developing new election supplies, election materials, and voting instructions that reflect the changes required by this act. Election officials may reformulate the instructions to precinct board members, precinct officers, and poll workers as necessary to reflect the changes required by this act.

SEC. 124. Section 4.5 of this bill incorporates amendments to Section 2150 of the Elections Code proposed by both this bill and AB 44. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2008, (2) each bill amends Section 2150 of the Elections Code, and (3) this bill is enacted after AB 44, in which case Section 4 of this bill shall not become operative.

SEC. 125. Section 6.5 of this bill incorporates amendments to Section 2166.5 of the Elections Code proposed by both this bill and AB 603. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2008, (2) each bill amends Section 2166.5 of the Elections Code, and (3) this bill is enacted after AB 603, in which case Section 6 of this bill shall not become operative.

SEC. 126. Section 24.5 of this bill incorporates amendments to Section 3011 of the Elections Code proposed by both this bill and AB 1167. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2008, (2) each bill amends Section 3011 of the Elections Code, and (3) this bill is enacted after AB 1167, in which case Section 24 of this bill shall not become operative.

SEC. 127. Section 30.5 of this bill incorporates amendments to Section 3017 of the Elections Code proposed by both this bill and AB 773. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2008, (2) each bill amends Section 3017 of the Elections Code, and (3) this bill is enacted after AB 773, in which case Section 30 of this bill shall not become operative.

SEC. 128. Section 103.5 of this bill incorporates amendments to Section 15320 of the Elections Code proposed by both this bill and AB 773. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2008, (2) each bill amends Section 15320 of the Elections Code, and (3) this bill is enacted after AB 773, in which case Section 103 of this bill shall not become operative.

SEC. 129. Section 43.5 of this bill incorporates amendments to Section 3103.5 of the Elections Code proposed by both this bill and AB 223. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2008, (2) each bill amends Section 3103.5 of the Elections Code, and (3) this bill is enacted after AB 223, in which case Section 43 of this bill shall not become operative.

SEC. 130. Section 47.5 of this bill incorporates amendments to Section 3110 of the Elections Code proposed by both this bill and AB 223. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2008, (2) each bill amends Section 3110 of the Elections Code, and (3) this bill is enacted after AB 223, in which case Section 47 of this bill shall not become operative.

SEC. 131. Section 84.5 of this bill incorporates amendments to Section 14310 of the Elections Code proposed by both this bill and AB 1248. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2008, (2) each bill amends Section 14310 of the Evidence Code, and (3) this bill is enacted after AB 1248, in which case Section 84 of this bill shall not become operative.

SEC. 132. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

CHAPTER 509

An act to amend Section 935.6 of the Government Code, relating to state claims, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 11, 2007. Filed with Secretary of State October 11, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 935.6 of the Government Code is amended to read:

935.6. (a) The Victim Compensation and Government Claims Board may authorize any state agency to settle and pay claims filed pursuant to Section 905.2 if the settlement does not exceed one thousand dollars ($1,000) or a lesser amount as the board may determine, or to reject the claim and provide the notice required by Section 913. The board may require state agencies that it so authorizes to report annually to the board concerning the claims resolved pursuant to this section.

(b) As used in this section, "state agency" means any office, officer, department, division, bureau, board, commission, or agency of the state, claims against which are paid by warrants drawn by the Controller, but does not mean any judicial branch entity, as defined in Section 900.3, or any judge thereof.

SEC. 2. (a) The sum of seven hundred thirty-three thousand six hundred forty-seven dollars and forty-seven cents ($733,647.47) is hereby appropriated from the various funds, as specified in subdivision (b), to the Executive Officer of the California Victim Compensation and Government Claims Board for the payment of claims accepted by the board in accordance with the schedule set forth in subdivision (b).

(b) Pursuant to subdivision (a), claims accepted by the California Victim Compensation and Government Claims Board shall be paid in accordance with the following schedule:

Total for Fund: General Fund (0001)..... $518,103.81

Total for Fund: Item 0950-001-0001	
Budget Act of 2007, Program 20.....	$500.00
Total for Fund: Item 1900-001-0822	
Budget Act of 2007, Program 30.....	$655.50
Total for Fund: Item 2660-001-0042	
Budget Act of 2007, Program 50.00.....	$15,615.35
Total for Fund: Item 2740-001-0044	
Budget Act of 2007, Program 40.01.....	$370.67
Total for Fund: Item 2740-001-0044	
Budget Act of 2007, Program 41.01.....	$2,865.13
Total for Fund: Item 2740-001-0064	
Budget Act of 2007, Program 30.....	$196.00
Total for Fund: Item 3600-001-0001	
Budget Act of 2007, Program 20.....	$175,000.00
Total for Fund: Item 3600-001-0200	
Budget Act of 2007, Program 20.....	$2,048.18
Total for Fund: Item 4260-001-0001	
Budget Act of 2007, Program 20.....	$7,198.18
Total for Fund: Item 5180-111-0001	
Budget Act of 2007, Program 25.15.....	$3,833.04
Total for Fund: Item 6610-001-0001	
Budget Act of 2007, Program 06.....	$1,032.00
Total for Fund: Item 7100-001-0185	
Budget Act of 2007, Program 21.....	$988.84
Total for Fund: Item 7100-101-0588	
Budget Act of 2007, Program 21.....	$3,125.77
Total for Fund: Item 7100-101-0871	
Budget Act of 2007, Program 21.....	$2,115.00

(c) In addition to amounts identified in subdivision (b), the sum of two hundred thirty-nine thousand eleven dollars ($239,011) of the unencumbered balance in the Safe Neighborhood Parks, Clean Water, Clean Air and Coastal Protection Bond Fund, which was previously appropriated to the Department of Parks and Recreation in Item 3790-102-0005 of the Budget Act of 2000 (Chapter 52 of the Statutes of 2000), is hereby reappropriated to the Executive Officer of the California Victim Compensation and Government Claims Board for the payment of a claim to the City of St. Helena.

SEC. 3. Upon the request of the California Victim Compensation and Government Claims Board, in a form prescribed by the Controller, the Controller shall transfer surcharges and fees from the Budget Act items of appropriation identified in subdivisions (b) and (c) of Section 2 of this act to Item 1870-001-0001 of Section 2.00 of the Budget Act

of 2007. For each Budget Act item of appropriation, this amount shall not exceed the cumulative total of the per claim filing fees authorized by subdivision (c) of Section 905.2 of the Government Code and the surcharge authorized by subdivision (f) of Section 905.2 of the Government Code. For those items in subdivisions (b) and (c) of Section 2 that do not reflect a Budget Act appropriation, the Controller shall transfer an amount not to exceed the cumulative total of the per claim filing fees authorized by subdivision (c) of Section 905.2 of the Government Code and the surcharge authorized by subdivision (f) of Section 905.2 of the Government Code. This amount shall be transferred for support of the board as reimbursements to Item 1870-001-0001 of Section 2.00 of the Budget Act of 2007. The board shall provide a report of the amounts recovered pursuant to this authority to the Department of Finance within 90 days of the enactment of this act.

SEC. 4. (a) The sum of one million seven hundred sixty-five thousand dollars ($1,765,000) is hereby appropriated from the General Fund to the Executive Officer of the California Victim Compensation and Government Claims Board to pay claims resulting from county special election costs pursuant to Chapter 727 of the Statutes of 2006.

(b) This amount is based on, and reimbursement shall be provided at, a maximum rate of up to one dollar and thirty-seven cents ($1.37) per registered voter or the actual amount claimed for nonconsolidated elections, whichever is less, and a maximum rate of up to sixty-six cents ($0.66) per registered voter or the actual amount claimed for consolidated elections, whichever is less.

(c) The funds appropriated in this act may only be used to pay claims for special election costs authorized pursuant to Chapter 727 of the Statutes of 2006. Any funds appropriated in excess of the amounts actually required for the payment of these claims shall revert to the General Fund on June 30 of fiscal year 2007–08.

SEC. 5. Pursuant to Section 13965 of the Government Code, the Legislature hereby approves the report submitted by the California Victim Compensation and Government Claims Board on the following victim compensation claims:

Claim No. 501531.....	$9,432.50
Claim No. 672144.....	$3,569.47

SEC. 6. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to settle claims against the state and end hardship to claimants as quickly as possible, it is necessary for this act to take effect immediately.

CHAPTER 510

An act relating to the payment of claims against the state, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 11, 2007. Filed with Secretary of State October 11, 2007.]

The people of the State of California do enact as follows:

SECTION 1. The sum of three hundred seventy-five thousand two hundred thirty-six dollars ($375,236) is hereby appropriated from the General Fund to the Department of Justice to pay the settlement in the case entitled U.D. Registry, Inc. v. State of California, Los Angeles Superior Court Case No. BC 287331, Second District Court of Appeal Case Nos. B179653 and B186012. Any funds appropriated in excess of the amount required for the payment of this judgment claim shall revert to the General Fund on June 30, 2008.

SEC. 2. The sum of two million nine hundred thousand dollars ($2,900,000) is hereby appropriated from the General Fund to the Department of Justice to pay the settlement in the case entitled Godinez v. Schwarzenegger, Los Angeles Superior Court Case No. BC227352, Second District Court of Appeal Case No. B161508. Any funds appropriated in excess of the amount required for the payment of this judgment claim shall revert to the General Fund on June 30, 2008.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to pay claims against the state and end hardship to claimants as quickly as possible, it is necessary that this bill go into immediate effect.

CHAPTER 511

An act to amend Sections 22970, 22970.10, 22970.16, 22970.55, 22970.60, and 22970.89 of, and to add Sections 22970.175, 22970.58, and 22970.855 to, the Government Code, relating to public employee benefits, and making an appropriation therefor.

[Approved by Governor October 11, 2007. Filed with Secretary of State October 11, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 22970 of the Government Code is amended to read:

22970. (a) The Supplemental Contributions Program is hereby established to be a defined contribution plan within the meaning of subsection (i) of Section 414 of Title 26 of the United States Code. This program shall operate in accordance with the plan document adopted by the board.

(b) This part does not establish a new program, but rather recodifies, and further defines the Supplemental Contributions Program as amended by Chapter 576 of the Statutes of 1994, to ensure full compliance with the applicable provisions of Title 26 of the United States Code.

SEC. 2. Section 22970.10 of the Government Code is amended to read:

22970.10. "Account" means the account maintained with respect to the participant that reflects the aggregate value of the following amounts credited to the participant:

(a) Employee after-tax contributions to the plan.

(b) Net earnings of the Supplemental Contributions Program allocable to the participant.

(c) Any amount credited to the participant's account by reason of a transfer from another plan or arrangement in accordance with applicable laws.

SEC. 3. Section 22970.16 of the Government Code is amended to read:

22970.16. (a) "Eligible employee" means:

(1) A person employed by the state, the university, a school employer, or a contracting agency who is a member of the system as defined pursuant to the provisions of Chapter 4 (commencing with Section 20370) of Part 3.

(2) A legislator, as defined pursuant to Section 9351.3, who is a member of the Legislators' Retirement System.

(3) A judge, as defined in Sections 75002 and 75502, who is a member of the Judges' Retirement System or the Judges' Retirement System II.

(4) A person employed by an employer who contracts with the board for the Supplemental Contributions Program.

(b) The board shall determine when the members of the system who are employed by a school employer or a contracting agency shall become eligible employees.

SEC. 4. Section 22970.175 is added to the Government Code, to read:

22970.175. "Employer" means any city, county, city and county, district, school district, community college district, county superintendent of schools, or other public agency, instrumentality, or political subdivision of the state.

SEC. 5. Section 22970.55 of the Government Code is amended to read:

22970.55. (a) Employee after-tax contributions to the plan shall be made solely at the option of the participant.

(b) Employee contributions may be made directly by the participant to the plan on a periodic basis as specified by the board, or may be withheld from the employee's compensation after taxes and submitted by the employer through payroll deduction.

(c) The board shall establish the minimum contribution amount.

SEC. 6. Section 22970.58 is added to the Government Code, to read:

22970.58. The board may amend the plan to permit a participant to transfer funds from an eligible retirement plan into this plan to the extent that the transfers are allowed under applicable federal and state laws, and pursuant to the terms and conditions established by the board.

SEC. 7. Section 22970.60 of the Government Code is amended to read:

22970.60. Contributions made to the plan by the participant shall be credited to the participant's account.

SEC. 8. Section 22970.855 is added to the Government Code, to read:

22970.855. The board may amend the plan to permit a participant to withdraw some or all of his or her after-tax contributions without requiring the participant to terminate from the plan to the extent that this in-service distribution is allowed under applicable federal and state laws, and pursuant to the terms and conditions established by the board.

SEC. 9. Section 22970.89 of the Government Code is amended to read:

22970.89. (a) The plan's obligations to a participant, beneficiary, or nonparticipant spouse who elected a lump-sum distribution cease upon distribution of the lump-sum benefit.

(1) Deposit in the United States mail of a warrant drawn in favor of the participant, beneficiary, or nonparticipant spouse and addressed to the latest address on file for that person constitutes distribution of the benefit.

(2) Deposit in the United States mail of a notice that the requested electronic funds transfer has been made as directed by the participant, beneficiary, or nonparticipant spouse constitutes distribution of the benefit.

(3) If the participant, beneficiary, or nonparticipant spouse has elected on a form prescribed by the board to transfer all or a specific portion of the account that is eligible for a direct trustee-to-trustee transfer under Section 401(a)(31) of Title 26 of the United States Code to the trustee of an eligible retirement plan, deposit in the United States mail of a notice that the requested transfer has been made constitutes distribution of the benefit.

(b) The plan's obligations to a participant or beneficiary who elected to receive a benefit in the form of partial distributions cease upon distribution of the final payment.

(1) Deposit in the United States mail of a warrant drawn in favor of the participant or beneficiary and addressed to the latest address on file for that person constitutes distribution of the benefit.

(2) Deposit in the United States mail of a notice that the requested electronic funds transfer has been made as directed by the participant or beneficiary constitutes distribution of the benefit.

(c) Distribution under paragraph (1), (2), or (3) of subdivision (a) or paragraph (1) or (2) of subdivision (b) pursuant to the board's determination in good faith of the existence, identity, or other facts relating to entitlement of persons constitutes a complete discharge and release of the board, system, and plan from liability for payments.

(d) This section shall not apply to a permissible in-service distribution pursuant to Section 22970.855.

CHAPTER 512

An act to amend Section 4705 of, and to add Sections 4646.6 and 4704.6 to, the Welfare and Institutions Code, relating to developmental services.

[Approved by Governor October 11, 2007. Filed with Secretary of State October 11, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 4646.6 is added to the Welfare and Institutions Code, to read:

4646.6. Notwithstanding Section 632 of the Penal Code, a consumer, or his or her parent, guardian, conservator, or authorized representative, shall have the right to record electronically the proceedings of the individual program plan meetings on an audiotape recorder. The consumer, or his or her parent, guardian, conservator, or authorized representative, shall notify the regional center of their intent to record a meeting at least 24 hours prior to the meeting. If the regional center initiates the notice of intent to audiotape record a meeting and the consumer, or his or her parent, guardian, conservator, or authorized representative, refuses to attend the meeting because it will be tape recorded, the meeting shall not be recorded on an audiotape recorder. However, the regional center shall have the right to electronically record the meeting when notice of intent to record has been given by the consumer or on the consumer's behalf.

SEC. 2. Section 4704.6 is added to the Welfare and Institutions Code, to read:

4704.6. Each regional center and each vendor that contracts with a regional center to provide services to consumers shall conspicuously post on its Internet Web site, if any, a link to the department's Internet Web site page that provides a description of the appeals procedure set forth in this chapter and a department telephone number available for answering consumer and applicant appeals procedure questions.

SEC. 3. Section 4705 of the Welfare and Institutions Code is amended to read:

4705. (a) Every service agency shall, as a condition of continued receipt of state funds, have an agency fair hearing procedure for resolving conflicts between the service agency and recipients of, or applicants for, service. The State Department of Developmental Services shall promulgate regulations to implement this chapter by July 1, 1999, which shall be binding on every service agency.

Any public or private agency receiving state funds for the purpose of serving persons with developmental disabilities not otherwise subject to the provisions of this chapter shall, as a condition of continued receipt of state funds, adopt and periodically review a written internal grievance procedure.

(b) An agency that employs a fair hearing procedure mandated by any other statute shall be considered to have an approved procedure for purposes of this chapter.

(c) The service agency's mediation and fair hearing procedure shall be stated in writing, in English and any other language that may be appropriate to the needs of the consumers of the agency's service. A copy of the procedure and a copy of the provisions of this chapter shall be prominently displayed on the premises of the service agency.

(d) All recipients and applicants, and persons having legal responsibility for recipients or applicants, shall be informed verbally of, and shall be notified in writing in a language which they comprehend of, the service agency's mediation and fair hearing procedure when they apply for service, when they are denied service, when notice of service modification is given pursuant to Section 4710, and upon request.

(e) If, in the opinion of any person, the rights or interests of a claimant who has not personally authorized a representative will not be properly protected or advocated, the local area board and the clients' right advocate assigned to the regional center or developmental center shall be notified, and the area board may appoint a person or agency as representative, pursuant to subdivision (d) of Section 4548, to assist the claimant in the mediation and fair hearing procedure. The appointment shall be in writing to the authorized representative and a copy of the appointment shall be immediately mailed to the service agency director.

CHAPTER 513

An act to amend Sections 22661, 22820, 26002.5, 26004, and 27406 of the Education Code, relating to state teachers' retirement, and making an appropriation therefor.

[Approved by Governor October 11, 2007. Filed with Secretary of State October 11, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 22661 of the Education Code is amended to read:

22661. (a) The nonmember spouse who is awarded a separate account under this part shall have the right to a refund of the accumulated retirement contributions in the account under the Defined Benefit Program, and a return of the Defined Benefit Supplement account balance, of the nonmember spouse under this part.

(b) The nonmember spouse shall file an application on a form provided by the system to obtain a refund or lump-sum payment.

(c) The refund of accumulated retirement contributions in the account under the Defined Benefit Program and the return of the accumulated Defined Benefit Supplement account balance under this part are effective when the system deposits in the United States mail an initial warrant drawn in favor of the nonmember spouse and addressed to the latest address for the nonmember spouse on file with the system.

(d) If the nonmember spouse has elected on a form provided by the system to transfer all or a specified portion of the accumulated retirement contributions or accumulated Defined Benefit Supplement account balance that are eligible for direct trustee-to-trustee transfer to the trustee of a qualified plan under Section 402 of the Internal Revenue Code of 1986 (26 U.S.C.A. Sec. 402), deposit in the United States mail of a notice that the requested transfer has been made constitutes a refund of the nonmember spouse's accumulated retirement contributions as defined in Section 22161.5 or the return of the accumulated Defined Benefit Supplement account balance.

(e) The nonmember spouse is deemed to have permanently waived all rights and benefits pertaining to the service credit, accumulated retirement contributions, and accumulated Defined Benefit Supplement account balance under this part when the refund and lump-sum payment become effective.

(f) The nonmember spouse may not cancel a refund or lump-sum payment under this part after it is effective.

(g) The nonmember spouse shall not have a right to elect to redeposit the refunded accumulated retirement contributions under this part after the refund is effective, to redeposit under Section 22662 or purchase additional service credit under Section 22663 after the refund becomes effective, or to redeposit the accumulated Defined Benefit Supplement account balance after the lump-sum payment becomes effective.

(h) If the total service credit in the separate account of the nonmember spouse under the Defined Benefit Program, including service credit purchased under Sections 22662 and 22663, is less than two and one-half years, the board shall refund the accumulated retirement contributions in the account.

SEC. 2. Section 22820 of the Education Code is amended to read:

22820. (a) A member, other than a retired member, may elect to purchase credit for out-of-state service for any of the following:

(1) Service performed in a position while employed by a public educational institution located in another state or territory of the United States.

(2) Educational service performed as an employee of the United States.

(3) Service performed as an employee of an educational institution located outside of the United States and its territories that receives a portion of its funding from any foreign or domestic public sources and provides a level of education comparable to kindergarten and grades 1 to 12, inclusive, as determined by the applicable law of the jurisdiction in which the educational institution is located.

(4) As an employee of an educational institution that receives funds under Section 2701 of Title 22 of the United States Code.

(b) The member may not receive credit for this service if the member retains or is eligible to receive credit for the same service in the Cash Balance Benefit Program under Part 14 (commencing with Section 26000) or another public retirement system, excluding social security.

(c) The amount of out-of-state service for which a member may purchase credit may not exceed the number of years of service performed by the member in a position described in subdivision (a).

(d) Out-of-state service credit may be purchased under this section by means of any of the following actions:

(1) Paying an amount equal to the amount refunded from the other public retirement system and receiving service credit under the Defined Benefit Program pursuant to subdivision (a) of Section 22823.

(2) Paying the contributions required under the Defined Benefit Program pursuant to subdivision (a) of Section 22823 for the service credited in the other public retirement system.

(3) Paying an amount equal to the amount refunded from the other public retirement system and an additional amount in accordance with subdivision (a) of Section 22823 for the service credited in the other public retirement system.

(4) Paying the contributions required under the Defined Benefit Program pursuant to subdivision (a) of Section 22823 for the service not credited to a public retirement system.

(e) Compensation for out-of-state service may not be used in determining the highest average annual compensation earnable when calculating final compensation.

(f) The service credit purchased under this section may not be used to meet the eligibility requirements for benefits provided under Sections 24001 and 24101.

SEC. 3. Section 26002.5 of the Education Code is amended to read:

26002.5. Except as excluded in subdivision (d) of Section 26807.5 or subdivision (d) of Section 26906.5, a person who is the registered domestic partner of a member, as established pursuant to Section 297 or 299.2 of the Family Code, shall be treated in the same manner as a "spouse," as defined in Section 26140.

SEC. 4. Section 26004 of the Education Code is amended to read:

26004. Notwithstanding any other provision of law:

(a) The benefits payable to any participant or beneficiary under this part shall be subject to the limitations imposed by Section 415 of Title 26 of the United States Code.

(b) The amount of compensation that is taken into account in computing benefits under this part for a plan year shall not exceed the annual compensation limit applicable to that plan year in accordance with Section 401(a)(17) of Title 26 of the United States Code as that section read on the effective date of this section and as that section may be amended after that date. The determination of compensation for a 12-month period shall be subject to the annual compensation limit in effect for the calendar year in which the 12-month period begins. In a determination of average compensation over more than one 12-month period, the amount of compensation taken into account for each 12-month period shall be subject to the respective annual compensation limit applicable to that period.

(c) Distributions from the plan under this part shall be made in accordance with Section 401(a)(9) of Title 26 of the United States Code, including the incidental death benefit requirements of Section 401(a)(9)(G) and the regulations thereunder. The required beginning date of benefit payments that represent the entire interest of the participant shall be as follows:

(1) In the case of a lump-sum distribution of a retirement benefit, disability benefit, or termination benefit, the lump-sum payment shall be made not later than April 1 of the calendar year following the later of (A) the calendar year in which the participant attains the age at which the Internal Revenue Code of 1986 requires a distribution of benefits or (B) the calendar year in which the participant terminates all employment subject to coverage by the plan.

(2) In the case of a retirement benefit or disability benefit that is to be paid in the form of an annuity, payment of the annuity shall begin not later than April 1 of the calendar year following the later of (A) the calendar year in which the participant attains the age at which the Internal Revenue Code of 1986 requires a distribution of benefits or (B) the calendar year in which the participant terminates employment in all positions subject to coverage by the plan, with the annuity to continue over the life of the participant or the life of the participant and the participant's option beneficiary, or over a period not to exceed the life expectancy of the participant or the life expectancy of the participant and the participant's option beneficiary.

(3) In the case of a death benefit, distributions shall commence no later than the date provided in Section 27001.

(d) If a person becomes entitled to a distribution from the plan under this part that constitutes an eligible rollover distribution within the meaning of Section 401(a)(31) of Title 26 of the United States Code, the person may elect under terms and conditions established by the board to have the distribution or a portion thereof paid directly to a plan that constitutes an eligible retirement plan within the meaning of Section 401(a)(31), as specified by that person. Upon the exercise of the election by a person with respect to a distribution or a portion thereof, the distribution from the plan of the amount so designated, once distributable under the terms of the plan, shall be made in the form of a direct rollover to the eligible retirement plan so specified.

(e) The amount of any benefit from the plan under this part that is determined on the basis of actuarial assumptions shall be based on actuarial assumptions adopted by the board pursuant to Section 26213 as a plan amendment with respect to the Cash Balance Benefit Program and those assumptions shall preclude employer discretion and comply with Section 401(a)(25) of Title 26 of the United States Code.

SEC. 5. Section 27406 of the Education Code is amended to read:

27406. The nonparticipant spouse who is awarded separate nominal accounts with respect to the Cash Balance Benefit Program shall have the right to a lump-sum distribution of amounts credited to the account.

(a) The nonparticipant spouse shall file an application on a form provided by the system to obtain the distribution.

(b) The distribution is effective when the system deposits in the United States mail a warrant drawn in favor of the nonparticipant spouse and addressed to the latest address for the nonparticipant spouse on file with the system.

(c) If the nonparticipant spouse has elected on a form provided by the system to transfer all or a specified portion of the accounts that are eligible for direct trustee-to-trustee transfer under Section 401(a)(31) of Title 26 of the United States Code to the trustee of a qualified plan under Section 402 of Title 26 of the United States Code, deposit in the United States mail of a notice that the requested transfer has been made constitutes a distribution of the nonparticipant spouse's credit balance from the separate nominal accounts.

(d) The nonparticipant spouse is deemed to have permanently waived all rights to an annuity when the distribution becomes effective.

(e) The nonparticipant spouse may not cancel a distribution after the distribution is effective.

(f) The nonparticipant spouse shall have no right to elect to redeposit the distribution after the distribution is effective.

CHAPTER 514

An act to amend Sections 32000.5 and 34501.12 of, and to add Section 35780.5 to, the Vehicle Code, relating to vehicles.

[Approved by Governor October 11, 2007. Filed with Secretary of State October 11, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 32000.5 of the Vehicle Code is amended to read:

32000.5. (a) Every motor carrier who directs the transportation of an explosive and any motor carrier who directs the transportation of a hazardous material, who is required to display placards pursuant to Section 27903, and every motor carrier who transports for a fee in excess of 500 pounds of hazardous materials of the type requiring placards pursuant to Section 27903, shall be licensed in accordance with the provisions of this code, unless specifically exempted by this code or regulations adopted pursuant to this code. This license shall be available for examination and shall be displayed in accordance with the regulations adopted by the commissioner.

(b) (1) Except as provided in Section 32001, this division shall not apply to any person hauling only hazardous waste, as defined in Section 25115 or 25117 of the Health and Safety Code, and who is registered pursuant to subdivision (a) of Section 25163 of the Health and Safety Code or who is exempt from that registration pursuant to subdivision (b) of that section.

(2) Motor carriers that are transporting a hazardous waste and are required to display placards pursuant to Section 27903 shall comply with all provisions of Section 32001 except paragraph (3) of subdivision (c) of that section.

(c) This division does not apply to implements of husbandry, as defined in Section 36000.

(d) This division does not apply to the hauling of division 1.3 explosives classified as special fireworks or to division 1.4 explosives classified as common fireworks by the United States Department of Transportation if those fireworks are transported by a motor carrier under the authority of, and in conformance with, a license issued to the motor carrier by the State Fire Marshal pursuant to Part 2 (commencing with Section 12500) of Division 11 of the Health and Safety Code. In that case, a copy of the license shall be carried in the vehicle and presented to any peace officer upon request.

(e) (1) The department shall not issue a license to transport hazardous materials to a motor carrier unless each terminal from which hazardous materials carrying vehicles are operated is in compliance with the requirements of Section 34501.12 and is currently rated satisfactory.

(2) The department shall adopt rules and regulations that provide for a temporary license to transport hazardous materials for carriers who, within the previous three years, have not been issued an unsatisfactory rating for an inspection conducted pursuant to Section 34501, 34501.12, or 34520.

(3) It is the intent of the Legislature that a carrier's license to transport hazardous materials should not be unreasonably hindered as a result of the department's verification and issuance process.

SEC. 2. Section 34501.12 of the Vehicle Code is amended to read:

34501.12. (a) Notwithstanding Section 408, as used in this section and Sections 34505.5 and 34505.6, "motor carrier" means the registered owner of a vehicle described in subdivision (a), (b), (e), (f), or (g) of Section 34500, except in the following circumstances:

(1) The registered owner leases the vehicle to another person for a term of more than four months. If the lease is for more than four months, the lessee is the motor carrier.

(2) The registered owner operates the vehicle exclusively under the authority and direction of another person. If the operation is exclusively under the authority and direction of another person, that other person may assume the responsibilities as the motor carrier. If not so assumed, the registered owner is the motor carrier. A person who assumes the motor carrier responsibilities of another pursuant to subdivision (b) shall provide to that other person whose motor carrier responsibility is so assumed, a completed copy of a departmental form documenting that assumption, stating the period for which responsibility is assumed, and signed by an agent of the assuming person. A legible copy shall be carried in each vehicle or combination of vehicles operated on the highway during the period for which responsibility is assumed. That copy shall be presented upon request by an authorized employee of the department. The original completed departmental form documenting the assumption shall be provided to the department within 30 days of the assumption. If the assumption of responsibility is terminated, the person who had assumed responsibility shall so notify the department in writing within 30 days of the termination.

(b) (1) A motor carrier may combine two or more terminals that are not subject to an unsatisfactory compliance rating within the last 36 months for purposes of the inspection required by subdivision (d), subject to all of the following conditions:

(A) The carrier identifies to the department, in writing, each terminal proposed to be included in the combination of terminals for purposes of this subdivision prior to an inspection of the designated terminal pursuant to subdivision (d).

(B) The carrier provides the department, prior to the inspection of the designated terminal pursuant to subdivision (d), a written listing of all its vehicles of a type subject to subdivision (a), (b), (e), (f), or (g) of Section 34500 that are based at each of the terminals combined for purposes of this subdivision. The listing shall specify the number of vehicles of each type at each terminal.

(C) The carrier provides to the department at the designated terminal during the inspection all maintenance records and driver records and a representative sample of vehicles based at each of the terminals included within the combination of terminals.

(2) If the carrier fails to provide the maintenance records, driver records, and representative sample of vehicles pursuant to subparagraph (C) of paragraph (1), the department shall assign the carrier an unsatisfactory terminal rating and require a reinspection to be conducted pursuant to subdivision (h).

(3) For purposes of this subdivision, the following terms have the following meanings:

(A) "Driver records" includes pull notice system records, driver proficiency records, and driver timekeeping records.

(B) "Maintenance records" includes all required maintenance, lubrication, and repair records and drivers' daily vehicle condition reports.

(C) "Representative sample" means the following, applied separately to the carrier's fleet of motortrucks and truck tractors and its fleet of trailers:

Fleet Size	Representative Sample
1 or 2	All
3 to 8	3
9 to 15	4
16 to 25	6
26 to 50	9
51 to 90	14
91 or more	20

(c) Each motor carrier who, in this state, directs the operation of, or maintains, a vehicle of a type described in subdivision (a) shall designate one or more terminals, as defined in Section 34515, in this state where

vehicles can be inspected by the department pursuant to paragraph (4) of subdivision (a) of Section 34501 and where vehicle inspection and maintenance records and driver records will be made available for inspection.

(d) (1) The department shall inspect, at least every 25 months, every terminal, as defined in Section 34515, of a motor carrier who, at any time, operates a vehicle described in subdivision (a).

(2) The department shall place an inspection priority on those terminals operating vehicles listed in subdivision (g) of Section 34500.

(3) As used in this section and in Sections 34505.5 and 34505.6, subdivision (f) of Section 34500 includes only those combinations where the gross vehicle weight rating (GVWR) of the towing vehicle exceeds 10,000 pounds, but does not include a pickup truck, and subdivision (g) of Section 34500 includes only those vehicles transporting hazardous material for which the display of placards is required pursuant to Section 27903, a license is required pursuant to Section 32000.5, or for which hazardous waste transporter registration is required pursuant to Section 25163 of the Health and Safety Code. Historical vehicles, as described in Section 5004, vehicles that display special identification plates in accordance with Section 5011, implements of husbandry and farm vehicles, as defined in Chapter 1 (commencing with Section 36000) of Division 16, and vehicles owned or operated by an agency of the federal government are not subject to this section or to Sections 34505.5 and 34505.6.

(e) (1) It is the responsibility of the motor carrier to schedule with the department the inspection required by subdivision (d). The motor carrier shall submit an application form supplied by the department, accompanied by the required fee contained in paragraph (2), for each terminal the motor carrier operates. This fee shall be submitted within 30 days of establishing a terminal. All fees submitted under paragraph (2) are nonrefundable.

(2) (A) The fee for each terminal is set forth in the following table:

Terminal fleet size	Required fee per terminal
1	$ 270
2	$ 375
3 to 8	$ 510
9 to 15	$ 615
16 to 25	$ 800
26 to 50	$1,040
51 to 90	$1,165
91 or more	$1,870

(B) In addition to the fee specified in subparagraph (A), the motor carrier shall submit an additional fee of three hundred fifty dollars ($350) for each of its terminals not previously inspected under the section.

(3) Except as provided in paragraph (5), the inspection term for each inspected terminal of a motor carrier shall expire 25 months from the date the terminal receives a satisfactory compliance rating, as specified in subdivision (h). Applications and fees for subsequent inspections shall be submitted not earlier than nine months and not later than seven months before the expiration of the motor carrier's then current inspection term. If the motor carrier has submitted the inspection application and the required accompanying fees, but the department is unable to complete the inspection within the 25-month inspection period, then no additional fee shall be required for the inspection requested in the original application.

(4) All fees collected pursuant to this subdivision shall be deposited in the Motor Vehicle Account in the State Transportation Fund. An amount equal to the fees collected shall be available for appropriation by the Legislature from the Motor Vehicle Account to the department for the purpose of conducting truck terminal inspections and for the additional roadside safety inspections required by Section 34514.

(5) To avoid the scheduling of a renewal terminal inspection pursuant to this section during a carrier's seasonal peak business periods, the current inspection term of a terminal that has paid all required fees and has been rated satisfactory in its last inspection may be reduced by not more than nine months if a written request is submitted by the carrier to the department at least four months prior to the desired inspection month, or at the time of payment of renewal inspection fees in compliance with paragraph (3), whichever date is earlier. A motor carrier may request this adjustment of the inspection term during any inspection cycle. A request made pursuant to this paragraph shall not result in a fee proration and does not relieve the carrier from the requirements of paragraph (3).

(6) Failure to pay a fee required by this section, within the appropriate timeframe, shall result in additional delinquent fees as follows:

(A) For a delinquency period of more than 30 days, the penalty is 60 percent of the required fee.

(B) For a delinquency period of one to two years, the penalty is 80 percent of the required fee.

(C) For a delinquency period of more than two years, the penalty is 160 percent of the required fee.

(7) Federal, state, and local public entities are exempt from the fee requirement of this section.

(f) It is unlawful for a motor carrier to operate a vehicle subject to this section without having submitted an inspection application and the required fees to the department as required by subdivision (e) or (h).

(g) (1) It is unlawful for a motor carrier to operate a vehicle subject to this section after submitting an inspection application to the department, without the inspection described in subdivision (d) having been performed and a safety compliance report having been issued to the motor carrier within the 25-month inspection period or within 60 days immediately preceding the inspection period.

(2) It is unlawful for a motor carrier to contract or subcontract with, or otherwise engage the services of, another motor carrier, subject to this section, unless the contracted motor carrier has complied with this section. A motor carrier shall not contract or subcontract with, or otherwise engage the services of, another motor carrier until the contracted motor carrier provides certification of compliance with this section. This certification shall be completed in writing by the contracted motor carrier. The certification, or a copy thereof, shall be maintained by each involved party for the duration of the contract or the period of service plus two years, and shall be presented for inspection immediately upon the request of an authorized employee of the department.

(h) (1) An inspected terminal that receives an unsatisfactory compliance rating shall be reinspected within 120 days after the issuance of the unsatisfactory compliance rating.

(2) A terminal's first required reinspection under this subdivision shall be without charge unless one or more of the following is established:

(A) The motor carrier's operation presented an imminent danger to public safety.

(B) The motor carrier was not in compliance with the requirement to enroll all drivers in the pull notice program pursuant to Section 1808.1.

(C) The motor carrier failed to provide all required records and vehicles for a consolidated inspection pursuant to subdivision (b).

(3) If the unsatisfactory rating was assigned for any of the reasons set forth in paragraph (2), the carrier shall submit the required fee as provided in paragraph (4).

(4) Applications for reinspection pursuant to paragraph (3) or for second and subsequent consecutive reinspections under this subdivision shall be accompanied by the fee specified in paragraph (2) of subdivision (e) and shall be filed within 60 days of issuance of the unsatisfactory compliance rating. The reinspection fee is nonrefundable.

(5) When a motor carrier's Motor Carrier of Property Permit or Public Utilities Commission operating authority is suspended as a result of an unsatisfactory compliance rating, the department shall not conduct a reinspection for permit or authority reinstatement until requested to do

so by the Department of Motor Vehicles or the Public Utilities Commission, as appropriate.

(i) It is the intent of the Legislature that the department make its best efforts to inspect terminals within the resources provided. In the interest of the state, the Commissioner of the California Highway Patrol may extend for a period, not to exceed six months, the inspection terms beginning prior to July 1, 1990.

(j) Except as provided in paragraph (5), to encourage motor carriers to attain continuous satisfactory compliance ratings, the department may establish and implement an incentive program consisting of the following:

(1) After the second consecutive satisfactory compliance rating assigned to a motor carrier terminal as a result of an inspection conducted pursuant to subdivision (d), and after each consecutive satisfactory compliance rating thereafter, an appropriate certificate, denoting the number of consecutive satisfactory ratings, shall be awarded to the terminal, unless the terminal has received an unsatisfactory compliance rating as a result of an inspection conducted in the interim between the consecutive inspections conducted under subdivision (d), or the motor carrier is rated unsatisfactory by the department following a controlled substances and alcohol testing program inspection. The certificate authorized under this paragraph shall not be awarded for performance in the administrative review authorized under paragraph (2). However, the certificate shall include a reference to any administrative reviews conducted during the period of consecutive satisfactory compliance ratings.

(2) Unless the department's evaluation of the motor carrier's safety record indicates a declining level of compliance, a terminal that has attained two consecutive satisfactory compliance ratings assigned following inspections conducted pursuant to subdivision (d) is eligible for an administrative review in lieu of the next required inspection, unless the terminal has received an unsatisfactory compliance rating as a result of an inspection conducted in the interim between the consecutive inspections conducted under subdivision (d). An administrative review shall consist of all of the following:

(A) A signed request by a terminal management representative requesting the administrative review in lieu of the required inspection containing a promise to continue to maintain a satisfactory level of compliance for the next 25-month inspection term.

(B) A review with a terminal management representative of the carrier's record as contained in the department's files. If a terminal has been authorized a second consecutive administrative review, the review required under this subparagraph is optional, and may be omitted at the carrier's request.

(C) Absent any cogent reasons to the contrary, upon completion of the requirements of subparagraphs (A) and (B), the safety compliance rating assigned during the last required inspection shall be extended for 25 months.

(3) Not more than two administrative reviews may be conducted consecutively. At the completion of the 25-month inspection term following a second administrative review, a terminal inspection shall be conducted pursuant to subdivision (d). If this inspection results in a satisfactory compliance rating, the terminal shall again be eligible for an administrative review in lieu of the next required inspection. If the succession of satisfactory ratings is interrupted by a rating of other than satisfactory, irrespective of the reason for the inspection, the terminal shall again attain two consecutive satisfactory ratings to become eligible for an administrative review.

(4) As a condition for receiving the administrative reviews authorized under this subdivision in lieu of inspections, and in order to ensure that compliance levels remain satisfactory, the motor carrier shall agree to accept random, unannounced inspections by the department.

(5) Notwithstanding paragraphs (1) to (4), inclusive, a motor carrier of hazardous materials shall not be granted administrative review pursuant to this subdivision in lieu of a terminal inspection pursuant to subdivision (d) at any terminal from which hazardous materials carrying vehicles identified by paragraph (3) of subdivision (d) are operated.

(k) This section shall be known and may be cited as the Biennial Inspection of Terminals Program or BIT.

SEC. 3. Section 35780.5 is added to the Vehicle Code, to read:

35780.5. (a) Notwithstanding Section 320.5, the Department of Transportation or a local authority, with respect to highways under their respective jurisdictions, may, upon application, issue a special permit authorizing the applicant to operate or move a vehicle carrying a load, lying in the horizontal position, of stacked trusses or wall panels that are used as single width components in the manufacture of a finished product, that exceeds the maximum width specified by this code, if the load does not exceed 12 feet in width and the permittee complies with the regulations of the Department of Transportation or a local authority, as the case may be, governing the transportation of these loads.

(b) Under conditions prescribed by the Department of Transportation or the local authority, the Department of Transportation or local authority may accept applications and issue permits directly to an applicant or permit service, by any of the following processes:

(1) In writing.

(2) By an authorized facsimile process.

(3) Through an authorized computer and modem connection.

(c) The special permit allowed pursuant to this section shall, under conditions prescribed by the Department of Transportation or a local authority, be granted on either a per trip or annual basis.

(d) As used in this section, "truss" means a designed and manufactured assemblage of structural elements typically arranged in a triangle or combination of triangles to form a rigid framework and used as a structural support in buildings.

(e) As used in this section, "wall panel" means a designed and manufactured assemblage of structural elements constructed in the same manner as site-built walls to form a rigid framework and used as a structural support in buildings, which may have attached various types of sheathing products including wood structural panels, foam panels, and gypsum board that do not exceed more than one foot beyond the main structural elements.

CHAPTER 515

An act to amend Sections 13102 and 15375 of the Elections Code, relating to elections.

[Approved by Governor October 11, 2007. Filed with Secretary of State October 11, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 13102 of the Elections Code is amended to read:

13102. (a) All voting shall be by ballot. There shall be provided, at each polling place, at each election at which public officers are to be voted for, but one form of ballot for all candidates for public office, except that, for partisan primary elections, one form of ballot shall be provided for each qualified political party as well as one form of nonpartisan ballot, in accordance with subdivision (b).

(b) At partisan primary elections, each voter not registered as intending to affiliate with any one of the political parties participating in the election shall be furnished only a nonpartisan ballot, unless he or she requests a ballot of a political party and that political party, by party rule duly noticed to the Secretary of State, authorizes a person who has declined to state a party affiliation to vote the ballot of that political party. The nonpartisan ballot shall contain only the names of all candidates for nonpartisan offices and measures to be voted for at the primary election. Each voter registered as intending to affiliate with a political party

participating in the election shall be furnished only a ballot of the political party with which he or she is registered and the nonpartisan ballot, both of which shall be printed together as one ballot in the form prescribed by Section 13207.

(c) A political party may adopt a party rule in accordance with subdivision (b) that authorizes a person who has declined to state a party affiliation to vote the ballot of that political party at the next ensuing partisan primary election. The political party shall notify the party chair immediately upon adoption of that party rule. The party chair shall provide written notice of the adoption of that rule to the Secretary of State not later than the 135th day prior to the partisan primary election at which the vote is authorized.

(d) The county elections official shall maintain a record of which political party's ballot was requested pursuant to subdivision (b), or whether a nonpartisan ballot was requested, by each person who declined to state a party affiliation. The record shall be made available to any person or committee who is authorized to receive copies of the printed indexes of registration for primary and general elections pursuant to Section 2184. A record produced pursuant to this subdivision shall be made available in either a printed or electronic format, as requested by the authorized person or committee.

SEC. 2. Section 15375 of the Elections Code is amended to read:

15375. The elections official shall send to the Secretary of State within 35 days of the election in an electronic format in the manner requested one complete copy of all results as to all of the following:

(a) All candidates voted for statewide office.

(b) All candidates voted for the following offices:

(1) Member of the Assembly.

(2) Member of the Senate.

(3) Member of the United States House of Representatives.

(4) Member of the State Board of Equalization.

(5) Justice of the Court of Appeal.

(6) Judge of the superior court.

(c) All persons voted for at the presidential primary. The results for all persons voted for at the presidential primary for delegates to national conventions shall be canvassed and shall be sent within 28 days after the election.

(d) The vote given for persons for electors of President and Vice President of the United States. The results for presidential electors shall be endorsed "Presidential Election Returns."

(e) All statewide measures.

(f) The total number of ballots cast.

SEC. 3. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

CHAPTER 516

An act to add and repeal Article 8 (commencing with Section 1627) of Chapter 4 of Division 2 of the Health and Safety Code, relating to umbilical cord blood banking.

[Approved by Governor October 11, 2007. Filed with Secretary of State October 11, 2007.]

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) (1) The blood left in the umbilical cord after a baby has been delivered is a rich source of stem cells known as Hematopoietic progenitor cells (HPCs) that can be used for transplants for over 70 conditions. These disorders and diseases include all of the following:

(A) Blood cancers such as leukemia, myeloma, and lymphoma.

(B) Immunodeficiencies and genetic diseases, including sickle cell anemia, thalassemia, inherited marrow failure disorders.

(C) Inherited disorders or errors of metabolisms.

(2) Research is underway to study how HPCs can be applied to additional conditions. While stem cells from bone marrow have typically been used for stem cell transplants, umbilical cord blood stem cells have significant advantages over bone marrow.

(b) Umbilical cord blood is typically discarded after a birth. In the last two decades, since determining the viability of using this blood as a source for stem cell transplants, umbilical cord blood began to be banked for future use. Major authorities on the subject, including the Institute of Medicine of the National Academies, the American Academy of Pediatrics, and the American College of Obstetricians and Gynecologists, have stated that the most effective use of umbilical cord blood is to publicly bank this blood so that it can be entered in a national registry, such as the National Marrow Donor Program, to be available for anyone in need.

(c) Efforts are already under way to increase our national inventory. As of 2007, over 50,000 usable units of umbilical cord blood are in

registered inventories. The Institute of Medicine of the National Academies published a roadmap in 2005 to building the inventory, "Cord Blood – Establishing a National Hematopoietic Stem Cell Bank Program" calling for an increase in both the size and the genetic diversity of our inventory. If the inventory is genetically diverse, based on racial and ethnic backgrounds, an inventory with as few as 300,000 units could match almost all in need. With more than 550,000 births a year in California, 300,000 units should not be an insurmountable goal.

(d) Federal legislation (H.R. 2520 – 2005) was enacted to support these efforts. Grants were authorized to six entities, including one bank in California, to build the national inventory with a goal of obtaining an additional 150,000 units. It is the intent of this Legislature to enhance national efforts by adding an increased number of units from California. The more the inventory mirrors the genetic makeup of our state's population, the greater the chance our citizens will find a match when they are in need. Every year tens of thousands of Californians needlessly suffer and die from lack of stem cell transplants due to failure to obtain a tissue match.

(e) The greatest challenge is not a lack of potential supply of umbilical cord blood, but rather determining which blood is needed to diversify the inventory and how to target those populations. In 2006, the Institute of Medicine cited a cost of $1,500 to collect, test, and store each unit, and of $500 per collected, but ultimately discarded, unit. Discarded units can be used for research on other potential uses. Collections must be strategic and selective, as there is limited banking capacity, and not everyone who wants to donate will be able to donate.

(f) As part of each contract or grant, the bank shall demonstrate plans to target populations for education and awareness about public banking of umbilical cord blood.

SEC. 2. Article 8 (commencing with Section 1627) is added to Chapter 4 of Division 2 of the Health and Safety Code, to read:

Article 8. Umbilical Cord Blood Program

1627. (a) On or before January 1, 2010, the State Department of Public Health shall establish the Umbilical Cord Blood Collection Program for the purpose of increasing the inventory of umbilical cord blood donated from Californians which will be part of the national umbilical cord blood inventory. Units collected shall be entered into a national registry and made available to the public for purposes of human stem cell transplant. Units collected but unusable for transplant may be made available for research to further the understanding of the use of umbilical cord blood as tissue to treat human diseases.

(b) When umbilical cord blood is used for research, research protocols shall be approved by the Committee for the Protection of Human Subjects or an institutional review board, as defined in subdivision (e) of Section 125330.

(c) All blood collected for either transplant or research shall follow all applicable law and guidelines applicable to donor confidentiality and security of donor information. All information collected shall be confidential and shall be used solely for the purposes of the program.

1628. (a) To the extent public or private funds or grants are identified and secured for these purposes, the Umbilical Cord Blood Collection Program may identify and provide funds for grants or contracts with qualified umbilical cord blood banks, licensed or accredited pursuant to Section 1604.6, for the purposes of collecting and storing genetically diverse umbilical cord blood for public transplantation purposes.

(b) No state funds, unless specifically appropriated for this purpose, shall be used for implementation of this section. Any funds made available for purposes of this article shall be deposited into the Umbilical Cord Blood Collection Program Fund, which is hereby created in the General Fund. Moneys in the fund shall be available, upon appropriation by the Legislature, for purposes of this article. The fund shall include any federal, state, and private funds made available for purposes of the program, and, notwithstanding Section 16305.7 of the Government Code, any interest earned on moneys in the fund.

1629. In implementing the program, the department shall make every effort to avoid duplication or conflicts with existing and ongoing programs and to leverage existing resources.

1630. This article shall remain in effect only until January 1, 2015, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2015, deletes or extends that date.

SEC. 3. This act shall only become operative if Senate Bill 962 of the 2007–08 Regular Session, is enacted and becomes operative.

CHAPTER 517

An act to amend Section 123371 of, and to add Section 124991 to, the Health and Safety Code, relating to umbilical cord blood.

[Approved by Governor October 11, 2007. Filed with Secretary of State October 11, 2007.]

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares that the removal and discarding of umbilical cord blood from a pregnant woman at the time of birth delivery, without the understanding and approval of the expectant families, is a growing concern to the people of this state.

SEC. 2. Section 123371 of the Health and Safety Code is amended to read:

123371. (a) (1) The State Department of Public Health shall develop standardized, objective information about umbilical cord blood donation that is sufficient to allow a pregnant woman to make an informed decision on whether to participate in a private or public umbilical cord blood banking program. The information developed by the department shall enable a pregnant woman to be informed of her option to do any of the following:

(A) Discard umbilical cord blood.

(B) Donate umbilical cord blood to a public umbilical cord blood bank.

(C) Store the umbilical cord blood in a family umbilical cord blood bank for the use by immediate and extended family members.

(D) Donate umbilical cord blood to research.

(2) The information developed pursuant to paragraph (1) shall include, but not be limited to, all of the following:

(A) The current and potential future medical uses of stored umbilical cord blood.

(B) The benefits and risks involved in umbilical cord blood banking.

(C) The medical process involved in umbilical cord blood banking.

(D) Medical or family history criteria that can impact a family's consideration of umbilical cord banking.

(E) An explanation of the differences between public and private umbilical cord blood banking.

(F) The availability and costs of public or private umbilical cord blood banks.

(G) Medical or family history criteria that can impact a family's consideration of umbilical cord blood banking.

(H) An explanation that the practices and policies of blood banks may vary with respect to accreditation, cord blood processing and storage methods, costs, and donor privacy.

(I) An explanation that pregnant women are not required to donate their umbilical cord blood for research purposes.

(b) The information provided by the department pursuant to subdivision (a) shall be made available in Cantonese, English, Spanish, and Vietnamese, and shall be updated by the department as needed.

(c) The information provided by the department pursuant to subdivision (a) shall be made available on the Internet Web sites of the licensing boards that have oversight over primary prenatal care providers.

(d) (1) A primary prenatal care provider of a woman who is known to be pregnant may, during the first prenatal visit, provide the information required by subdivision (a) to the pregnant woman.

(2) For purposes of this article, a "prenatal care provider" means a health care provider licensed pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code, or pursuant to an initiative act referred to in that division, who provides prenatal medical care within his or her scope of practice.

(e) The department shall only implement this article upon a determination by the Director of Finance, that sufficient private donations have been collected and deposited into the Umbilical Cord Blood Education Account, which is hereby created in the State Treasury. The moneys in the account shall be available, upon appropriation by the Legislature, for the purposes of this article. No public funds shall be used to implement this article. If sufficient funds are collected and deposited into the account, the Director of Finance shall file a written notice thereof with the Secretary of State.

SEC. 3. Section 124991 is added to the Health and Safety Code, to read:

124991. (a) (1) The State Department of Public Health shall provide any umbilical cord blood samples it receives pursuant to Section 123371 to the Birth Defects Monitoring Program for storage and research. In administering this section the department shall ensure that the Birth Defects Monitoring Program meets at least one of the following conditions:

(A) The fees paid by researchers, investigators, and health care services providers pursuant to subdivision (c) shall be used to cover the cost of collecting and storing blood, including umbilical cord blood.

(B) The department receives confirmation that an investigator, researcher, or health care provider has requested umbilical cord blood samples for research or has requested cord blood samples to be included within a request for pregnancy and newborn blood samples through the program.

(C) The department receives federal grant moneys to pay for initial startup costs for the collection and storage of umbilical cord blood samples.

(2) The department may limit the number of units the program collects each year.

(b) (1) All information relating to umbilical cord blood samples collected and utilized by the Birth Defects Monitoring Program shall be

confidential, and shall be used solely for the purposes of the program. Access to confidential information shall be limited to authorized persons who agree, in writing, to maintain the confidentiality of that information.

(2) The department shall maintain an accurate record of all persons who are given confidential information pursuant to this section, and any disclosure of confidential information shall be made only upon written agreement that the information will be kept confidential, used for its approved purpose, and not be further disclosed.

(3) Any person who, in violation of a written agreement to maintain confidentiality, discloses any information provided pursuant to this section, or who uses information provided pursuant to this section in a manner other than as approved pursuant to this section may be denied further access to any confidential information maintained by the department, and shall be subject to a civil penalty not exceeding one thousand dollars ($1,000). The penalty provided in this section shall not be construed as to limit or otherwise restrict any remedy, provisional or otherwise, provided by law for the benefit of the department or any other person covered by this section.

(c) In order to implement this program, the department shall establish fees of an amount that shall not exceed the costs of administering the program, which the department shall collect from researchers and health care providers who have been approved by the department and who seek to use the following types of blood samples, collected by the Birth Defects Monitoring Program, for research:

(1) Umbilical cord blood.

(2) Pregnancy blood.

(3) Newborn blood.

(d) Fees collected pursuant to subdivision (c) shall be deposited into the Birth Defects Monitoring Program Fund created pursuant to paragraph (7) of subdivision (b) of Section 124977. Moneys deposited into the fund pursuant to this section may be used by the department, upon appropriation by the Legislature, for the purposes specified in subdivision (e).

(e) Moneys in the fund shall be used for the costs related to data management, including data linkage and entry, and umbilical cord blood storage, retrieval, processing, inventory, and shipping.

(f) The department shall adopt rules and regulations pursuant to existing requirements in the Birth Defects Monitoring Program, as set forth in Chapter 1 (commencing with Section 103825) of Part 2 of Division 102.

(g) The department, health care providers, and local health departments shall maintain the confidentiality of patient information in accordance with existing law and in the same manner as other medical record

information with patient identification that they possess, and shall use the information only for the following purposes:

(1) Research to identify risk factors for children's and women's diseases.

(2) Research to develop and evaluate screening tests.

(3) Research to develop and evaluate prevention strategies.

(4) Research to develop and evaluate treatments.

(h) (1) For purposes of ensuring the security of a donor's personal information, before any umbilical cord blood samples are released pursuant to this section for research purposes, the State Committee for the Protection of Human Subjects (CPHS) shall determine if all of the following criteria have been met:

(A) The Birth Defects Monitoring Program contractors or other entities approved by the department have provided a plan sufficient to protect personal information from improper use and disclosures, including sufficient administrative, physical, and technical safeguards to protect personal information from reasonable anticipated threats to the security or confidentiality of the information.

(B) The Birth Defects Monitoring Program contractors or other entities approved by the department have provided a sufficient plan to destroy or return all personal information as soon as it is no longer needed for the research activity, unless the program contractors or other entities approved by the department have demonstrated an ongoing need for the personal information for the research activity and have provided a long-term plan sufficient to protect the confidentiality of that information.

(C) The Birth Defects Monitoring Program contractors or other entities approved by the department have provided sufficient written assurances that the personal information will not be reused or disclosed to any other person or entity, or used in any manner not approved in the research protocol, except as required by law or for authorized oversight of the research activity.

(2) As part of its review and approval of the research activity for the purpose of protecting personal information held in agency databases, CPHS shall accomplish at least all of the following:

(A) Determine whether the requested personal information is needed to conduct the research.

(B) Permit access to personal information only if it is needed for the research activity.

(C) Permit access only to the minimum necessary personal information needed for the research activity.

(D) Require the assignment of unique subject codes that are not derived from personal information in lieu of social security numbers if the research can still be conducted without social security numbers.

(E) If feasible, and if cost, time, and technical expertise permit, require the agency to conduct a portion of the data processing for the researcher to minimize the release of personal information.

(i) In addition to the fees described in subdivision (c), the department may bill a researcher for the costs associated with the department's process of protecting personal information, including, but not limited to, the department's costs for conducting a portion of the data processing for the researcher, removing personal information, encrypting or otherwise securing personal information, or assigning subject codes.

(j) Nothing in this section shall prohibit the department from using its existing authority to enter into written agreements to enable other institutional review boards to approve research activities, projects or classes of projects for the department, provided the data security requirements set forth in this section are satisfied.

SEC. 3. This act shall only become operative if Assembly Bill 34, of the 2007–08 Regular Session, is enacted and becomes operative on or before January 1, 2008.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CHAPTER 518

An act to amend Sections 14166.1, 14166.5, 14166.9, 14166.12, 14166.13, 14166.20, 14166.21, and 14166.23 of, and to amend, renumber, and add Section 14166.25 of, the Welfare and Institutions Code, relating to Medi-Cal, and making an appropriation therefor.

[Approved by Governor October 12, 2007. Filed with Secretary of State October 12, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 14166.1 of the Welfare and Institutions Code is amended to read:

14166.1. For purposes of this article, the following definitions shall apply:

(a) "Allowable costs" means those costs recognized as allowable under Medicare reasonable cost principles and additional costs recognized under the demonstration project, including those expenditures identified in Appendix D to the Special Terms and Conditions for the demonstration project. Allowable costs under this subdivision shall be determined in accordance with the Special Terms and Conditions for the demonstration project and demonstration project implementation documents approved by the federal Centers for Medicare and Medicaid Services.

(b) "Base year private DSH hospital" means a nonpublic hospital, nonpublic-converted hospital, or converted hospital, as those terms are defined in paragraphs (26), (27), and (28), respectively, of subdivision (a) of Section 14105.98, that was an eligible hospital under paragraph (3) of subdivision (a) of Section 14105.98 for the 2004–05 state fiscal year.

(c) "Demonstration project" means the Medi-Cal Hospital/Uninsured Care Demonstration, Number 11-W-00193/9, as approved by the federal Centers for Medicare and Medicaid Services.

(d) "Designated public hospital" means any one of the following 22 hospitals identified in Attachment C, "Government-operated Hospitals to be Reimbursed on a Certified Public Expenditure Basis," to the Special Terms and Conditions for the demonstration project issued by the federal Centers for Medicare and Medicaid Services:

(1) UC Davis Medical Center.
(2) UC Irvine Medical Center.
(3) UC San Diego Medical Center.
(4) UC San Francisco Medical Center.
(5) UC Los Angeles Medical Center, including Santa Monica/UCLA Medical Center.
(6) LA County Harbor/UCLA Medical Center.
(7) LA County Martin Luther King Jr.-Harbor Hospital.
(8) LA County Olive View UCLA Medical Center.
(9) LA County Rancho Los Amigos National Rehabilitation Center.
(10) LA County University of Southern California Medical Center.
(11) Alameda County Medical Center.
(12) Arrowhead Regional Medical Center.
(13) Contra Costa Regional Medical Center.
(14) Kern Medical Center.
(15) Natividad Medical Center.
(16) Riverside County Regional Medical Center.
(17) San Francisco General Hospital.
(18) San Joaquin General Hospital.
(19) San Mateo Medical Center.
(20) Santa Clara Valley Medical Center.

(21) Tuolumne General Hospital.

(22) Ventura County Medical Center.

(e) "Federal medical assistance percentage" means the federal medical assistance percentage applicable for federal financial participation purposes for medical services under the Medi-Cal state plan pursuant to Section 1396b(a) of Title 42 of the United States Code.

(f) "Nondesignated public hospital" means a public hospital defined in paragraph (25) of subdivision (a) of Section 14105.98, excluding designated public hospitals.

(g) "Project year" means the applicable state fiscal year of the Medi-Cal Hospital/Uninsured Care Demonstration Project.

(h) "Project year private DSH hospital" means a nonpublic hospital, nonpublic-converted hospital, or converted hospital, as those terms are defined in paragraphs (26), (27), and (28), respectively, of subdivision (a) of Section 14105.98, that was an eligible hospital under paragraph (3) of subdivision (a) of Section 14105.98, for the particular project year.

(i) "Prior supplemental funds" means the Emergency Services and Supplemental Payment Fund, the Medi-Cal Medical Education Supplemental Payment Fund, the Large Teaching Emphasis Hospital and Children's Hospital Medi-Cal Medical Education Supplemental Payment Fund, and the Small and Rural Hospital Supplemental Payments Fund, established under Sections 14085.6, 14085.7, 14085.8, and 14085.9, respectively.

(j) "Private hospital" means a nonpublic hospital, nonpublic converted hospital, or converted hospital, as those terms are defined in paragraphs (26) to (28), inclusive, respectively, of subdivision (a) of Section 14105.98.

(k) "Safety net care pool" means the federal funds available under the Medi-Cal Hospital/Uninsured Care Demonstration Project to ensure continued government support for the provision of health care services to uninsured populations.

(*l*) "Uninsured" shall have the same meaning as that term has in the Special Terms and Conditions issued by the federal Centers for Medicare and Medicaid Services for the demonstration project.

SEC. 2. Section 14166.5 of the Welfare and Institutions Code is amended to read:

14166.5. (a) With respect to each project year, the director shall determine a baseline funding amount for each designated public hospital. A hospital's baseline funding amount shall be an amount equal to the total amount paid to the hospital for inpatient hospital services rendered to Medi-Cal beneficiaries during the 2004–05 fiscal year, including the following Medi-Cal payments, but excluding payments received under the Medi-Cal Specialty Mental Health Services Consolidation Program:

(1) Base payments under the selective provider contracting program as provided for under Article 2.6 (commencing with Section 14081).

(2) Emergency Services and Supplemental Payments Fund payments as provided for under Section 14085.6.

(3) Medi-Cal Medical Education Supplemental Payment Fund payments and Large Teaching Emphasis Hospital and Children's Hospital Medi-Cal Medical Education Supplemental Payment Fund payments as provided for under Sections 14085.7 and 14085.8, respectively.

(4) Disproportionate share hospital payment adjustments as provided for under Section 14105.98.

(5) Administrative day payments as provided for under Section 51542 of Title 22 of the California Code of Regulations.

(b) The baseline funding amount for each designated public hospital shall reflect a reduction for the total amount of intergovernmental transfers made pursuant to Sections 14085.6, 14085.7, 14085.8, 14085.9, and 14163 for the 2004–05 state fiscal year by the designated public hospital, or the governmental entity with which it is affiliated.

(c) With respect to each project year beginning after the 2005–06 project year, the department shall determine an adjusted baseline funding amount for each designated public hospital to reflect any increase or decrease in volume. The adjustment for designated public hospitals shall be calculated as follows:

(1) Applying the cost-finding methodology approved under the demonstration project, and applying accounting and reporting practices consistent with those applied in paragraph (2), the department shall determine the total allowable costs incurred by the hospital, or the governmental entity with which it is affiliated, in rendering hospital services that would be recognized under the demonstration project to Medi-Cal beneficiaries and the uninsured during the 2004–05 state fiscal year.

(2) Applying the cost-finding methodology approved under the demonstration project, and applying accounting and reporting practices consistent with those applied in paragraph (1), the department shall determine the total allowable costs incurred by the hospital, or the governmental entity with which it is affiliated, in rendering hospital services under the demonstration project to Medi-Cal beneficiaries and the uninsured during the state fiscal year preceding the project year for which the volume adjustment is being calculated.

(3) The department shall:

(A) Calculate the difference between the amount determined under paragraph (1) and the amount determined under paragraph (2).

(B) Determine the percentage increase or decrease by dividing the difference in subparagraph (A) by the amount in paragraph (1).

(C) Apply the percentage determined in subparagraph (B) to that amount that results from the hospital's baseline funding amount determined under subdivision (a) as adjusted by subdivision (b), except for the reduction for the amount of intergovernmental transfers made pursuant to Section 14163, minus the amount of disproportionate share hospital payments in paragraph (4) of subdivision (a).

(4) The designated public hospital's adjusted baseline for the project year is the amount determined for the hospital in subdivision (a) as adjusted by subdivision (b), plus the amount in subparagraph (C) of paragraph (3).

(5) Notwithstanding paragraphs (3) and (4), when, as determined by the department, in consultation with the designated public hospital, there has been a material reduction in patient services at the designated public hospital during the project year, and the reduction has resulted in a diminution of access for Medi-Cal and uninsured patients and a related reduction in total costs at the designated public hospital of at least 20 percent, the department may utilize current or adjusted data that are reflective of the diminution of access, even if the data are not annual data, to determine the hospital's adjusted baseline amount.

(d) The aggregate designated public hospital baseline funding amount for each project year shall be the sum of all baseline funding amounts determined under subdivisions (a) and (b), as adjusted in subdivision (c), as appropriate, for all designated public hospitals.

(e) (1) If, with respect to any project year, the difference between the percentage adjustment in subparagraph (B) of paragraph (3) of subdivision (c) of this section, computed in the aggregate for designated public hospitals, excluding the percentage adjustment for any designated public hospital that was not in operation for the full project year, is greater than five percentage points more than the aggregate percentage adjustment for private DSH hospitals determined under subparagraph (B) of paragraph (3) of subdivision (c) of Section 14166.13, then the aggregate percentage adjustment for designated public hospitals shall be reduced in the amount necessary to reduce the difference to five percentage points. The reduction required by the previous sentence shall be allocated among designated public hospitals pro rata based on the relationship between each hospital's percentage determined under subparagraph (B) of paragraph (3) of subdivision (c) of this section and the aggregate percentage for designated public hospitals.

(2) Notwithstanding paragraph (1), the department may apply the adjustments set forth in paragraph (5) of subdivision (c).

SEC. 3. Section 14166.9 of the Welfare and Institutions Code is amended to read:

14166.9. (a) The department, in consultation with the designated public hospitals, shall determine the mix of sources of federal funds for payments to the designated public hospitals in a manner that provides baseline funding to hospitals and maximizes federal Medicaid funding to the state during the term of the demonstration project. Federal funds shall be claimed according to the following priorities:

(1) The certified public expenditures of the designated public hospitals for inpatient hospital services and physician and nonphysician practitioner services, as identified in subdivision (e) of Section 14166.4, rendered to Medi-Cal beneficiaries.

(2) Federal disproportionate share hospital allotment, subject to the federal-hospital specific limit, in the following order:

(A) Those hospital expenditures that are eligible for federal financial participation only from the federal disproportionate share hospital allotment.

(B) Payments funded with intergovernmental transfers, consistent with the requirements of the demonstration project, up to the hospital's baseline funding amount or adjusted baseline funding amount, as appropriate, for the project year.

(C) Any other certified public expenditures for hospital services that are eligible for federal financial participation from the federal disproportionate share hospital allotment.

(3) Safety net care pool funds, using the optimal combination of hospital certified public expenditures and certified public expenditures of a hospital, or governmental entity with which the hospital is affiliated, that operates nonhospital clinics or provides physician, nonphysician practitioner, or other health care services that are not identified as hospital services under the Special Terms and Conditions for the demonstration project, except that certified public expenditures reported by the County of Los Angeles or its designated public hospitals shall be the exclusive source of certified public expenditures for claiming those federal funds deposited in the South Los Angeles Medical Services Preservation Fund under Section 14166.25.

(4) Health care expenditures of the state that represent alternate state funding mechanisms approved by the federal Centers for Medicare and Medicaid Services under the demonstration project as set forth in Section 14166.22.

(b) The department shall implement these priorities, to the extent possible, in a manner that minimizes the redistribution of federal funds that are based on the certified public expenditures of the designated public hospitals.

(c) The department may adjust the claiming priorities to the extent that these adjustments result in additional federal Medicaid funding

during the term of the demonstration project or facilitate the objectives of subdivision (b).

(d) There is hereby established in the State Treasury the "Demonstration Disproportionate Share Hospital Fund," consisting of all federal funds received by the department with respect to the certified public expenditures claimed pursuant to subparagraphs (A) and (C) of paragraph (2) of subdivision (a). Notwithstanding Section 13340 of the Government Code, the fund shall be continuously appropriated to the department solely for the purposes specified in Section 14166.6.

(e) (1) Except as provided in Section 14166.25, all federal safety net care pool funds claimed and received by the department based on health care expenditures incurred by the designated public hospitals, or other governmental entities, shall be deposited in the Health Care Support Fund, established pursuant to Section 14166.21.

(2) The department shall separately identify and account for federal safety net care pool funds claimed and received by the department under the health care coverage initiative program authorized under Part 3.5 (commencing with Section 15900) and under paragraphs 43 and 44 of the Special Terms and Conditions for the demonstration project.

(3) With respect to those funds identified under paragraph (2), the department shall separately identify and account for federal safety net care pool funds claimed and received for inpatient hospital services rendered under the health care coverage initiative, including services rendered to enrollees of a managed care organization, by designated public hospitals, nondesignated public hospitals, and project year private DSH hospitals.

SEC. 4. Section 14166.12 of the Welfare and Institutions Code is amended to read:

14166.12. (a) The California Medical Assistance Commission shall negotiate payment amounts, in accordance with the selective provider contracting program established pursuant to Article 2.6 (commencing with Section 14081), from the Private Hospital Supplemental Fund established pursuant to subdivision (b) for distribution to private hospitals that satisfy the criteria of Section 14085.6, 14085.7, 14085.8, or 14085.9.

(b) The Private Hospital Supplemental Fund is hereby established in the State Treasury. For purposes of this section, "fund" means the Private Hospital Supplemental Fund.

(c) Notwithstanding Section 13340 of the Government Code, the fund shall be continuously appropriated to the department for the purposes specified in this section.

(d) Except as otherwise limited by this section, the fund shall consist of all of the following:

(1) One hundred eighteen million four hundred thousand dollars ($118,400,000), which shall be transferred annually from General Fund amounts appropriated in the annual Budget Act for the Medi-Cal program.

(2) Any additional moneys appropriated to the fund.

(3) All stabilization funding transferred to the fund pursuant to paragraph (2) of subdivision (a) of Section 14166.14.

(4) Any moneys that any county, other political subdivision of the state, or other governmental entity in the state may elect to transfer to the department for deposit into the fund, as permitted under Section 433.51 of Title 42 of the Code of Federal Regulations or any other applicable federal Medicaid laws.

(5) All private moneys donated by private individuals or entities to the department for deposit in the fund as permitted under applicable federal Medicaid laws.

(6) Any interest that accrues on amounts in the fund.

(e) Any public agency transferring moneys to the fund may, for that purpose, utilize any revenues, grants, or allocations received from the state for health care programs or purposes, unless otherwise prohibited by law. A public agency may also utilize its general funds or any other public moneys or revenues for purposes of transfers to the fund, unless otherwise prohibited by law.

(f) The department may accept or not accept moneys offered to the department for deposit in the fund. If the department accepts moneys pursuant to this section, the department shall obtain federal financial participation to the full extent permitted by law. With respect to funds transferred or donated from private individuals or entities, the department shall accept only those funds that are certified by the transferring or donating entity that qualify for federal financial participation under the terms of the Medicaid Voluntary Contribution and Provider-Specific Tax Amendments of 1991 (P.L. 102-234) or Section 433.51 of Title 42 of the Code of Federal Regulations, as applicable. The department may return any funds transferred or donated in error.

(g) Moneys in the fund shall be used as the source for the nonfederal share of payments to hospitals under this section.

(h) Any funds remaining in the fund at the end of a fiscal year shall be carried forward for use in the following fiscal year.

(i) Moneys shall be allocated from the fund by the department and shall be applied to obtain federal financial participation in accordance with customary Medi-Cal accounting procedures for purposes of payments under this section. Distributions from the fund shall be supplemental to any other Medi-Cal reimbursement received by the hospitals, including amounts that hospitals receive under the selective

provider contracting program (Article 2.6 (commencing with Section 14081)), and shall not affect provider rates paid under the selective provider contracting program.

(j) Each private hospital that was a private hospital during the 2002–03 fiscal year, received payments for the 2002–03 fiscal year from any of the prior supplemental funds, and, during the project year, satisfies the criteria in Section 14085.6, 14085.7, 14085.8, or 14085.9 to be eligible to negotiate for distributions under any of those sections, shall receive no less from the Private Hospital Supplemental Fund for the project year than 100 percent of the amount the hospital received from the prior supplemental funds for the 2002–03 fiscal year. Each private hospital described in this subdivision shall be eligible for additional payments from the fund pursuant to subdivision (k).

(k) All amounts that are in the fund for a project year in excess of the amount necessary to make the payments under subdivision (j) shall be available for negotiation by the California Medical Assistance Commission, along with corresponding federal financial participation, for supplemental payments to private hospitals, which for the project year satisfy the criteria under Section 14085.6, 14085.7, 14085.8, or 14085.9 to be eligible to negotiate for distributions under any of those sections, and paid for services rendered during the project year pursuant to the selective provider contracting program established under Article 2.6 (commencing with Section 14081).

(*l*) The amount of any stabilization funding transferred to the fund, or the amount of intergovernmental transfers deposited to the fund pursuant to subdivision (o), together with the associated federal reimbursement, with respect to a particular project year, may, in the discretion of the California Medical Assistance Commission, be paid for services furnished in the same project year regardless of when the stabilization funds or intergovernmental transfer funds, and the associated federal reimbursement, become available, provided the payment is consistent with other applicable federal or state law requirements and does not result in a hospital exceeding any applicable reimbursement limitations.

(m) The department shall pay amounts due to a private hospital from the fund for a project year, with the exception of stabilization funding, in up to four installment payments, unless otherwise provided in the hospital's contract negotiated with the California Medical Assistance Commission, except that hospitals that are not described in subdivision (j) shall not receive the first installment payment. The first payment shall be made as soon as practicable after the issuance of the tentative disproportionate share hospital list for the project year, and in no event later than January 1 of the project year. The second and subsequent

payments shall be made after the issuance of the final disproportionate hospital list for the project year, and shall be made only to hospitals that are on the final disproportionate share hospital list for the project year. The second payment shall be made by February 1 of the project year or as soon as practicable after the issuance of the final disproportionate share hospital list for the project year. The third payment, if scheduled, shall be made by April 1 of the project year. The fourth payment, if scheduled, shall be made by June 30 of the project year. This subdivision does not apply to hospitals that are scheduled to receive payments from the fund because they meet the criteria under Section 14085.7 and do not meet the criteria under Section 14085.6, 14085.8, or 14085.9, which shall be paid in accordance with the applicable contract or contract amendment negotiated by the California Medical Assistance Commission.

(n) The department shall pay stabilization funding transferred to the fund in amounts negotiated by the California Medical Assistance Commission and shall pay the scheduled payments in accordance with the applicable contract or contract amendment.

(o) Payments to private hospitals that are eligible to receive payments pursuant to Section 14085.6, 14085.7, 14085.8, or 14085.9 may be made using funds transferred from governmental entities to the state, at the option of the governmental entity. Any payments funded by intergovernmental transfers shall remain with the private hospital and shall not be transferred back to any unit of government. An amount equal to 25 percent of the amount of any intergovernmental transfer made in the project year that results in a supplemental payment made for the same project year to a project year private DSH hospital designated by the governmental entity that made the intergovernmental transfer shall be deposited in the fund for distribution as determined by the California Medical Assistance Commission. An amount equal to 75 percent shall be deposited in the fund and distributed to the private hospitals designated by the governmental entity.

(p) A private hospital that receives payment pursuant to this section for a particular project year shall not submit a notice for the termination of its participation in the selective provider contracting program established pursuant to Article 2.6 (commencing with Section 14081) until the later of the following dates:

(1) On or after December 31 of the next project year.

(2) The date specified in the hospital's contract, if applicable.

(q) (1) For the 2007–08, 2008–09, and 2009–10 project years, the County of Los Angeles shall make intergovernmental transfers to the state to fund the nonfederal share of increased Medi-Cal payments to those private hospitals that serve the South Los Angeles population formerly served by Los Angeles County Martin Luther King, Jr.-Harbor

Hospital. The intergovernmental transfers required under this subdivision shall be funded by county tax revenues and shall total five million dollars ($5,000,000) per project year, except that, in the event that the director determines that any amount is due to the County of Los Angeles under the demonstration project for services rendered during the portion of a project year during which Los Angeles County Martin Luther King, Jr.-Harbor Hospital was operational, the amount of intergovernmental transfers required under this subdivision shall be reduced by a percentage determined by reducing 100 percent by the percentage reduction in Los Angeles County Martin Luther King, Jr.-Harbor Hospital's baseline, as determined under subdivision (c) of Section 14166.5 for that project year.

(2) Notwithstanding subdivision (o), an amount equal to 100 percent of the county's intergovernmental transfers under this subdivision shall be deposited in the fund and, within 30 days after receipt of the intergovernmental transfer, shall be distributed, together with related federal financial participation, to the private hospitals designated by the county in the amounts designated by the county. The director shall disregard amounts received pursuant to this subdivision in calculating the OBRA 1993 payment limitation, as defined in paragraph (24) of subdivision (a) of Section 14105.98, for purposes of determining the amount of disproportionate share hospital replacement payments due a private hospital under Section 14166.11.

SEC. 5. Section 14166.13 of the Welfare and Institutions Code is amended to read:

14166.13. (a) With respect to each project year, the director shall determine a baseline funding amount for each base year private DSH hospital that is also a project year private DSH hospital. A private hospital's baseline funding amount shall be an amount equal to the total amount paid to the hospital for inpatient hospital services rendered to Medi-Cal beneficiaries during the 2004–05 state fiscal year, including the following Medi-Cal payments, but excluding payments received under the Medi-Cal Specialty Mental Health Services Consolidation Program:

(1) Base payments under the selective provider contracting program as provided for under Article 2.6 (commencing with Section 14081), or under the Medi-Cal state plan cost reimbursement system for inpatient hospital services for noncontracting hospitals.

(2) Emergency Services and Supplemental Payments Fund payments as provided for under Section 14085.6.

(3) Medi-Cal Medical Education Supplemental Payment Fund payments and Large Teaching Emphasis Hospital and Children's Hospital

Medi-Cal Medical Education Supplemental Payment Fund payments as provided for under Sections 14085.7 and 14085.8, respectively.

(4) Small and Rural Hospital Supplemental Payments Fund payments as provided for under Section 14085.9.

(5) Disproportionate share hospital payment adjustments as provided for under Section 14105.98.

(6) Administrative day payments as provided for under Section 51542 of Title 22 of the California Code of Regulations.

(b) The aggregate project year private DSH hospital baseline funding amount shall be the sum of all baseline funding amounts determined under subdivision (a).

(c) With respect to each project year beginning after the 2005–06 project year, an aggregate project year private DSH hospital adjusted baseline funding amount shall be determined as follows:

(1) The department shall determine the aggregate total Medi-Cal revenue, using amounts determined under subdivision (a), for inpatient hospital services rendered during the 2004–05 fiscal year for project year private DSH hospitals, less the total amount of disproportionate share hospital payments identified in paragraph (5) of subdivision (a) for those hospitals.

(2) The department shall determine the aggregate total Medi-Cal revenue paid or payable for inpatient hospital services rendered during the fiscal year immediately preceding the project year for which the private hospital adjusted baseline funding amount is being calculated for project year private DSH hospitals. The aggregate total revenue for services rendered in the relevant preceding fiscal year shall include the payments described in paragraphs (1) and (6) of subdivision (a), and all other payments made to project year private DSH hospitals under this article, excluding disproportionate share hospital replacement payments made under Section 14166.11, stabilization funding under Section 14166.14, and distressed hospital funding under Section 14166.23 and paragraph (3) of subdivision (b) of Section 14166.20.

(3) The department shall:

(A) Calculate the difference between the amount determined under paragraph (1) and the amount determined under paragraph (2).

(B) Determine the percentage increase or decrease by dividing the difference in subparagraph (A) by the amount in paragraph (1).

(C) Apply the percentage in subparagraph (B) to the amount determined under paragraph (1).

(4) The aggregate private DSH hospital adjusted baseline funding amount is the amount determined in paragraph (1), plus the amount determined in subparagraph (C), plus the amount in paragraph (5) of subdivision (a).

(d) If, with respect to any project year, the difference between the percentage adjustment in subparagraph (B) of paragraph (3) of subdivision (c) of this section is greater than five percentage points more than the aggregate percentage adjustment for designated public hospitals, excluding the percentage adjustment for any designated public hospital that was not in operation for the full project year, determined under subparagraph (B) of paragraph (3) of subdivision (c) of Section 14166.5, then the aggregate percentage adjustment for private DSH hospitals shall be reduced in the amount necessary to reduce the difference to five percentage points.

SEC. 6. Section 14166.20 of the Welfare and Institutions Code is amended to read:

14166.20. (a) With respect to each project year, the total amount of stabilization funding shall be the sum of the following:

(1) (A) Federal Medicaid funds available in the Health Care Support Fund, established pursuant to Section 14166.21, reduced by the amount necessary to meet the baseline funding amount, or the adjusted baseline funding amount, as appropriate, for project years after the 2005–06 project year for each designated public hospital, project year private DSH hospitals in the aggregate, and nondesignated public hospitals in the aggregate as determined in Sections 14166.5, 14166.13, and 14166.18, respectively, taking into account all other payments to each hospital under this article. This amount shall be not less than zero.

(B) For purposes of subparagraph (A), federal Medicaid funds available in the Health Care Support Fund shall not include health care coverage initiative amounts identified under paragraph (2) of subdivision (e) of Section 14166.9.

(2) The state general funds that were made available due to the receipt of federal funding for previously state-funded programs through the safety net care pool and any federal Medicaid hospital reimbursements resulting from these expenditures, unless otherwise recognized under paragraph (1), to the extent those funds are in excess of the amount necessary to meet the baseline funding amount, or the adjusted baseline funding amount, as appropriate, for project years after the 2005–06 project year for each designated public hospital, for project year private DSH hospitals in the aggregate, and for nondesignated public hospitals in the aggregate, as determined in Sections 14166.5, 14166.13, and 14166.18, respectively.

(3) To the extent not included in paragraph (1) or (2), the amount of the increase in state General Fund expenditures for Medi-Cal inpatient hospital services for the project year for project year private DSH hospitals and nondesignated public hospitals, including amounts expended in accordance with paragraph (1) of subdivision (c) of Section

14166.23, that exceeds the expenditure amount for the same purpose and the same hospitals necessary to provide the aggregate baseline funding amounts applicable to the project determined pursuant to Sections 14166.13 and 14166.18, and any direct grants to designated public hospitals for services under the demonstration project.

(4) To the extent not included in paragraph (2), federal Medicaid funds received by the state as a result of the General Fund expenditures described in paragraph (3).

(5) The federal Medicaid funds received by the state as a result of federal financial participation with respect to Medi-Cal payments for inpatient hospital services made to project year private DSH hospitals and to nondesignated public hospitals for services rendered during the project year, the state share of which was derived from intergovernmental transfers or certified public expenditures of any public entity that does not own or operate a public hospital.

(6) Federal safety net care pool funds claimed and received for inpatient hospital services rendered under the health care coverage initiative identified under paragraph (3) of subdivision (e) of Section 14166.9.

(b) With respect to the 2005–06, 2006–07, and subsequent project years, the stabilization funding determined under subdivision (a) shall be allocated as follows:

(1) Eight million dollars ($8,000,000) shall be paid to San Mateo Medical Center. All or a portion of this amount may be paid as disproportionate share hospital payments in addition to the hospital's allocation that would otherwise be determined under Section 14166.6. The amount provided for in this paragraph shall be disregarded in the application of the limitations described in paragraph (3) of subdivision (a) of Section 14166.6, and in paragraph (1) of subdivision (a) of Section 14166.7.

(2) (A) Ninety-six million two hundred twenty-eight thousand dollars ($96,228,000) shall be allocated to designated public hospitals to be paid in accordance with Section 14166.75.

(B) Forty-two million two hundred twenty-eight thousand dollars ($42,228,000) shall be allocated to private DSH hospitals to be paid in accordance with Section 14166.14.

(C) Five hundred forty-four thousand dollars ($544,000) shall be allocated to nondesignated public hospitals to be paid in accordance with Section 14166.17.

(D) In the event that stabilization funding is less than one hundred forty-seven million dollars ($147,000,000), the amounts allocated to designated public hospitals, private DSH hospitals, and nondesignated public hospitals under this paragraph shall be reduced proportionately.

(3) An amount equal to the lesser of 10 percent of the total amount determined under subdivision (a) or twenty-three million five hundred thousand dollars ($23,500,000), but at least fifteen million three hundred thousand dollars ($15,300,000), shall be made available for additional payments to distressed hospitals that participate in the selective provider contracting program under Article 2.6 (commencing with Section 14081), including designated public hospitals, in amounts to be determined by the California Medical Assistance Commission. The additional payments to designated public hospitals shall be negotiated by the California Medical Assistance Commission, but shall be paid by the department in the form of a direct grant rather than as Medi-Cal payments.

(4) An amount equal to 0.64 percent of the total amount determined under subdivision (a), to nondesignated public hospitals to be paid in accordance with Section 14166.19.

(5) The amount remaining after subtracting the amount determined in paragraphs (1) to (4), inclusive, shall be allocated as follows:

(A) Sixty percent to designated public hospitals to be paid in accordance with Section 14166.75.

(B) Forty percent to project year private DSH hospitals to be paid in accordance with Section 14166.14.

(c) By April 1 of the year following the project year for which the payment is made, and after taking into account final amounts otherwise paid or payable to hospitals under this article, the director shall calculate in accordance with subdivision (a), allocate in accordance with subdivision (b), and pay to hospitals in accordance with Sections 14166.75, 14166.14, and 14166.19, as applicable, the stabilization funding.

(d) For purposes of determining amounts paid or payable to hospitals under subdivision (c), the department shall apply the following:

(1) In determining amounts paid or payable to designated public hospitals that are based on allowable costs incurred by the hospital, or the governmental entity with which it is affiliated, the following shall apply:

(A) If the final payment amount is based on the hospital's Medicare cost report, the department shall rely on the cost report filed with the Medicare fiscal intermediary for the project year for which the calculation is made, reduced by a percentage that represents the average percentage change from total reported costs to final costs for the three most recent cost reporting periods for which final determinations have been made, taking into account all administrative and judicial appeals. Protested amounts shall not be considered in determining the average percentage change unless the same or similar costs are included in the project year cost report.

(B) If the final payment amount is based on costs not included in subparagraph (A), the reported costs as of the date the determination is made under subdivision (c), shall be reduced by 10 percent.

(C) In addition to adjustments required in subparagraphs (A) and (B), the department shall adjust amounts paid or payable to designated public hospitals by any applicable deferrals or disallowances identified by the federal Centers for Medicare and Medicaid Services as of the date the determination is made under subdivision (c) not otherwise reflected in subparagraphs (A) and (B).

(2) Amounts paid or payable to project year private DSH hospitals and nondesignated public hospitals shall be determined by the most recently available Medi-Cal paid claims data increased by a percentage to reflect an estimate of amounts remaining unpaid.

(e) The department shall consult with hospital representatives regarding the appropriate calculation of stabilization funding before stabilization funds are paid to hospitals. The calculation may be comprised of multiple steps involving interim computations and assumptions as may be necessary to determine the total amount of stabilization funding under subdivision (a) and the allocations under subdivision (b). No later than 30 days after this consultation, the department shall establish a final determination of stabilization funding that shall not be modified for any reason other than mathematical errors or mathematical omissions on the part of the department.

(f) The department shall distribute 75 percent of the estimated stabilization funding on an interim basis throughout the project year.

(g) The allocation and payment of stabilization funding shall not reduce the amount otherwise paid or payable to a hospital under this article or any other provision of law, unless the reduction is required by the demonstration project's Special Terms and Conditions or by federal law.

SEC. 7. Section 14166.21 of the Welfare and Institutions Code is amended to read:

14166.21. (a) The Health Care Support Fund is hereby established in the State Treasury. Notwithstanding Section 13340 of the Government Code, the fund shall be continuously appropriated to the department for the purposes specified in this article. The fund shall include any interest that accrues on amounts in the fund.

(b) Amounts in the Health Care Support Fund shall be paid in the following order of priority:

(1) To hospitals for services rendered to Medi-Cal beneficiaries and the uninsured in an amount necessary to meet the aggregate baseline funding amount, or the adjusted aggregate baseline funding amount for project years after the 2005-06 project year, as specified in subdivision

(d) of Section 14166.5, subdivision (b) of Section 14166.13, and Section 14166.18, taking into account all other payments to each hospital under this article, except payments made from the Distressed Hospital Fund pursuant to Section 14166.23 and payments made to distressed hospitals pursuant to paragraph (3) of subdivision (b) of Section 14166.20. If the amount in the Health Care Support Fund is inadequate to provide full aggregate baseline funding, or adjusted aggregate baseline funding, to all designated public hospitals, project year private DSH hospitals, and nondesignated public hospitals, each group's payments shall be reduced pro rata.

(2) To the extent necessary to maximize federal funding under the demonstration project and consistent with Section 14166.22, the department may claim safety net care pool funds based on health care expenditures incurred by the department for uncompensated medical care costs of medical services provided to uninsured individuals, as approved by the federal Centers for Medicare and Medicaid Services.

(3) Stabilization funding, allocated and paid in accordance with Sections 14166.75, 14166.14, and 14166.19, and paragraph (3) of subdivision (b) of Section 14166.20.

(4) Any amounts remaining after final reconciliation of all amounts due at the end of a project year shall remain available for payments in accordance with this section in the next project year.

(c) Subdivision (b) shall not apply to federal safety net care pool funds claimed and received for services rendered under the health care coverage initiative identified under paragraph (2) of subdivision (e) of Section 14166.9, which shall be paid in accordance with Part 3.5 (commencing with Section 15900) and under paragraphs 43 and 44 of the Special Terms and Conditions for the demonstration project.

SEC. 8. Section 14166.23 of the Welfare and Institutions Code is amended to read:

14166.23. (a) For purposes of this section, "distressed hospitals" are hospitals that participate in selective providers contracting under Article 2.6 (commencing with Section 14081) and that meet all of the following requirements, as determined by the California Medical Assistance Commission in its discretion:

(1) The hospital serves a substantial volume of Medi-Cal patients measured either as a percentage of the hospital's overall volume or by the total volume of Medi-Cal services furnished by the hospital.

(2) The hospital is a critical component of the Medi-Cal program's health care delivery system, such that the Medi-Cal health care delivery system would be significantly disrupted if the hospital reduced its Medi-Cal services or no longer participated in the Medi-Cal program.

(3) The hospital is facing a significant financial hardship that may impair its ability to continue its range of services for the Medi-Cal program.

(b) The Distressed Hospital Fund is hereby created in the State Treasury.

(c) Notwithstanding Section 13340 of the Government Code, the fund shall be continuously appropriated to the department for the purposes specified in this section.

(d) Except as otherwise limited by this section, the fund shall consist of all of the following:

(1) The amounts transferred to the fund pursuant to subdivision (e).

(2) Any additional amounts appropriated to the fund by the Legislature.

(3) Any interest that accrues on amounts in the fund.

(e) The following amounts shall be transferred to the fund from the prior supplemental funds at the beginning of each project year.

(1) Twenty percent of the amount in the prior supplemental funds on the effective date of this article, less any and all payments for services rendered prior to July 1, 2005, but paid after July 1, 2005.

(2) Interest that accrued on the prior supplemental funds during the prior project year.

(f) No distributions, payments, transfers, or disbursements shall be made from the prior supplemental funds except as set forth in this section.

(g) Moneys in the fund shall be used as the source for the nonfederal share of payments to hospitals under this section.

(h) Except as otherwise provided in subdivision (j), moneys shall be applied to obtain federal financial participation to the extent available in accordance with customary Medi-Cal accounting procedures for purposes of payments under this section. Distributions from the fund shall be supplemental to any other Medi-Cal reimbursement received by the hospitals, including amounts that hospitals receive under the selective provider contracting program, and shall not affect provider rates paid under the selective provider contracting program.

(i) Subject to subdivision (j), all amounts that are in the fund shall be available for negotiation by the California Medical Assistance Commission, along with corresponding federal financial participation, for additional payments to distressed hospitals. These amounts shall be paid under contracts entered into by the department and negotiated by the California Medical Assistance Commission pursuant to Article 2.6 (commencing with Section 14081), provided that any amounts payable to a designated public hospital shall be paid in the form of a direct grant of state general funds pursuant to a contract negotiated by the California Medical Assistance Commission. The commission shall not consider

the lack of federal financial participation in direct grants to designated public hospitals in determining which hospital may receive funding under this section.

(j) After April 1, 2007, and each April 1 thereafter, in the event that funding under this article is insufficient to meet the adjusted aggregate baseline funding amounts for a particular project year, as determined in subdivision (d) of Section 14166.5, and in Sections 14166.13 and 14166.18, funds under this section shall first be available for use under contracts negotiated by the California Medical Assistance Commission for hospitals contracting under the selective provider contracting program under Article 2.6 (commencing with Section 14081) in an effort to address the insufficiency, to the extent funds under this section are available on or after April 1 for the particular project year.

(k) Any funds remaining in the fund at the end of a fiscal year shall be carried forward for use in the following fiscal year.

SEC. 9. Section 14166.25 is added to the Welfare and Institutions Code, to read:

14166.25. (a) The Legislature finds and declares all of the following:

(1) In light of the closure of Los Angeles County Martin Luther King, Jr.-Harbor Hospital, there is a need to ensure adequate funding for continued health care services to the uninsured population of South Los Angeles, including, but not limited to, the Cities of Compton, Lynwood, South Gate, Huntington Park, the southern and central portions of the Cities of Los Angeles, Inglewood, Gardena, and surrounding unincorporated communities.

(2) The state, the County of Los Angeles, and all health care providers in the South Los Angeles community must work together to meet the health care needs of the community until the critical hospital services previously provided by Los Angeles County Martin Luther King, Jr. - Harbor Hospital can be restored at this location.

(3) The Medi-Cal Hospital/Uninsured Care Demonstration Project provides a critical source of funding for services to low-income communities throughout the state that are provided by California's safety net hospital systems.

(4) The special funding provided in this section is predicated on the express intent of the County of Los Angeles to restore hospital services on the hospital campus, to be operated by either a private or public entity. The county has undertaken a specific plan to do so as quickly as possible.

(5) The Legislature anticipates that demonstration project funds will be available to help fund the reopened hospital. The nature and amount of that funding cannot be determined until the new structure and operation of the hospital is known.

(6) As an interim response to the specific circumstances caused by the closure of this hospital, and until hospital services can be restored at this location, a special fund will be created to receive demonstration project funding to be available to the County of Los Angeles for expenditures to preserve health care services for the uninsured population of South Los Angeles, as defined above.

(b) The South Los Angeles Medical Services Preservation Fund is hereby created in the State Treasury. Notwithstanding Section 13340 of the Government Code, the fund shall be continuously appropriated to the department for the purposes specified in this section.

(c) Subject to the conditions in this section, a maximum amount of one hundred million dollars ($100,000,000) of the safety net care pool funds claimed and received by the state that are based on the certified public expenditures of the County of Los Angeles or its designated public hospitals shall be deposited in the South Los Angeles Medical Services Preservation Fund for each of the three project years, 2007–08, 2008–09, and 2009–10.

(1) In the event that the director determines that any amount is due to the County of Los Angeles under the demonstration project for services rendered during the portion of a project year during which Los Angeles County Martin Luther King, Jr. - Harbor Hospital was operational, the amount deposited in the fund under this subdivision shall be reduced by a percentage determined by reducing 100 percent by the percentage reduction in the hospital's baseline as determined under subdivision (c) of Section 14166.5 for that project year.

(2) If in the aggregate, the federal medical assistance percentage of the certified public expenditures reported by the County of Los Angeles and its designated public hospitals under Section 14166.8, excluding those certified public expenditures reported under paragraph (1) of subdivision (b) of Section 14166.8, in any project year do not exceed the amounts paid or payable to the county and its designated public hospitals in the aggregate under Section 14166.6, excluding disproportionate share payments funded with intergovernmental transfers, Section 14166.7, and subdivision (d) for the same project year, then the amount deposited in the fund under subdivision (c) shall be reduced by the amount of excess payments over the federal medical assistance percentage of certified public expenditures.

(d) Moneys in the South Los Angeles Medical Services Preservation Fund shall be distributed to the County of Los Angeles in amounts equal to the costs incurred by the county, including indirect costs associated with adequately maintaining the hospital building so that it can be reopened, in providing, or compensating other providers for, health

services rendered to the uninsured population of South Los Angeles, including all of the following:

(1) Services provided in the multiservice ambulatory care center operating on the former Los Angeles County Martin Luther King, Jr.-Harbor Hospital campus.

(2) Services rendered to patients in beds at other designated public hospitals operated by the County of Los Angeles that have been opened specifically for the purpose of serving patients that would have been served by the former Los Angeles County Martin Luther King, Jr. - Harbor Hospital.

(3) Services rendered in the county operated health center and the comprehensive health center formerly operated under Los Angeles County Martin Luther King, Jr.-Harbor Hospital.

(4) Services rendered to the uninsured by other public or private health care providers for which the County of Los Angeles has agreed to pay under a contract with the provider as a result of the downsizing or closure of Los Angeles County Martin Luther King, Jr.-Harbor Hospital.

(e) As a condition for receiving distributions from the South Los Angeles Medical Services Preservation Fund in any project year, the County of Los Angeles shall assure the director that it will not reduce the county's ongoing, systemwide financial contribution to the county department of health services during that project year for health care services to the uninsured.

(f) No funds shall be available from the South Los Angeles Medical Services Preservation Fund for services rendered when a hospital on the former Los Angeles County Martin Luther King, Jr.-Harbor Hospital campus is certified for Medi-Cal participation.

(g) If the full amount of the South Los Angeles Medical Services Preservation Fund for any project year is not distributed to the County of Los Angeles, based on the cost of services identified in subdivision (d) that were rendered during that project year, any remaining amounts shall revert to the Health Care Support Fund established pursuant to Section 14166.21.

(h) To the extent that the County of Los Angeles receives distributions from the South Los Angeles Medical Services Preservation Fund based on the cost of services rendered by county operated providers, or based on payments made to private providers for services rendered to the uninsured population of South Los Angeles, the costs of the services rendered shall not be considered for purposes of any of the following determinations with respect to either the county or the private provider:

(1) Medi-Cal payments under the selective provider contracting program under Article 2.6 (commencing with Section 14081), including payments to distressed hospitals under Section 14166.23.

(2) Baseline amounts, or adjustments thereto, under Section 14166.5, 14166.13, or 14166.18.

(3) Any other payment under Medi-Cal or other health care program.

(i) This section shall be implemented only to the extent that the director determines that it will not result in the loss of federal funds under the demonstration project.

SEC. 10. Section 14166.25 of the Welfare and Institutions Code is amended and renumbered to read:

14166.26. Unless this article is repealed pursuant to subdivision (b) or (g) of Section 14166.2, this article shall become inoperative on the date that the director executes a declaration, which shall be retained by the director and provided to the fiscal and appropriate policy committees of the Legislature, stating that the federal demonstration project provided for in this article has been terminated by the federal Centers for Medicare and Medicaid Services, and shall, six months after the date the declaration is executed, be repealed.

CHAPTER 519

An act to add Section 17070.52 to the Education Code, relating to school facilities.

[Approved by Governor October 12, 2007. Filed with Secretary of State October 12, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 17070.52 is added to the Education Code, to read:

17070.52. (a) The State Department of Education shall include in its application for new construction plan approval developed pursuant to the authority established in Section 17070.50 the following questions:

"Does the project include a school that will have a career technical education component and classroom space to accommodate that career technical education program? If not, how will the school district meet the needs for career technical education of pupils housed by the proposed new school facilities?"

"How is the need for vocational and career technical education facilities, as required pursuant to Section 17070.955 of the Education Code, identified?"

(b) The State Department of Education shall maintain the answers to the questions required by subdivision (a) that have been received from applicant school districts in a publicly accessible manner and shall provide a summary of the responses to the Office of Public School Construction on a quarterly basis. The Office of Public School Construction shall post each summary on its Web site as soon as possible after receiving it.

SEC. 2. It is the intent of the Legislature to include the reports required pursuant to subdivision (b) of Section 17070.52 of the Education Code, as set forth in Section 1 of this act, on the career technical education Internet Web site of the State Department of Education required to be created and established by the department pursuant to Assembly Bill 597 of the 2007–08 Regular Session, if enacted.

CHAPTER 520

An act to amend Sections 44260 and 44260.1 of, to add Section 44260.9 to, the Education Code, relating to teacher credentialing, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 12, 2007. Filed with Secretary of State October 12, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 44260 of the Education Code is amended to read:

44260. The minimum requirements for the designated subjects preliminary career technical education teaching credential shall be all of the following:

(a) Five years or the equivalent of adequate, successful, and recent experience in, or experience and education in, the subject named on the credential.

(b) Possession of a high school diploma or the passage of an equivalency examination as designated by the commission.

(c) Completion of two semester units or passage of an examination on the principles and provisions of the United States Constitution, as specified in Section 44335.

SEC. 2. Section 44260.1 of the Education Code is amended to read:

44260.1. The minimum requirements for the five-year renewal of the preliminary designated subjects career technical education teaching credential shall be all of the following:

(a) A valid designated subjects preliminary career technical education teaching credential.

(b) Two years of successful teaching, or the equivalent, as authorized by the designated subjects preliminary career technical education teaching credential.

(c) Completion of a program of personalized preparation as approved by the commission. It is the intent of the Legislature that the program of personalized preparation be consistent with whether the credential holder performs full-time or part-time service.

(d) Completion of a program of study in health education, including, but not limited to, an emphasis on the physiological and sociological effects of abuse of alcohol, narcotics, and drugs, and of the use of tobacco.

SEC. 3. Section 44260.9 is added to the Education Code, to read:

44260.9. (a) The commission shall establish a list of authorized subjects for the designated subjects preliminary career technical education teaching credential issued pursuant to Section 44260. The list shall reflect the 15 industry sectors identified in the California career technical education model curriculum standards adopted by the state board. The commission also shall ensure that each designated subjects professional clear credential issued is consistent with the list of authorized subjects used for the preliminary credential. The commission shall implement the authorized subjects list by September 30, 2007.

(b) (1) The commission shall convene an advisory committee to review credential requirements for designated subjects career technical education teaching credentials and make recommendations for consolidating requirements for full-time and part-time service. It is the intent of the Legislature that the commission focus on streamlining the credential structure by identifying the essential skills needed for successful career technical instruction.

(2) By April 1, 2008, the commission shall make recommendations to the Legislature on the minimum requirements for designated subjects career technical education teaching credentials.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to increase as quickly as possible the number of persons who possess a career technical education teaching credential that is consistent

with the industry sectors identified in the model curriculum standards, it is necessary that this act take effect immediately.

CHAPTER 521

An act to add Section 8774 to the Education Code, relating to school instruction.

[Approved by Governor October 12, 2007. Filed with Secretary of State October 12, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 8774 is added to the Education Code, to read:

8774. (a) A residential outdoor science program shall be eligible for funding pursuant to this section if it meets both of the following conditions:

(1) It is operated by a school district or county office of education pursuant to this article.

(2) It meets the standards of the Residential Outdoor Science School (ROSS) Guide and maintains current State Department of Education ROSS certification.

(b) An eligible residential outdoor science program may claim apportionment for any pupil who meets all of the following conditions:

(1) The pupil is enrolled in a California public school.

(2) The pupil is enrolled in grade 5 or 6.

(3) The applicant has not previously received funding for the pupil .pursuant to this section.

(4) The pupil participates in a minimum four day and three night program.

(5) The pupil is economically disadvantaged and meets the criteria of Section 49552.

(c) The Superintendent shall, subject to appropriation of funds for this purpose, apportion to each school district or county office of education that operates a residential outdoor science program pursuant to this article an amount equal to ten dollars ($10) per eligible participating pupil, multiplied by the total number of days of participation, up to a maximum of five days.

CHAPTER 522

An act to amend Sections 70101, 70106, 70120, 70124, 70125, 78261, 87482, 89267, and 92645 of, and to add Sections 66055.8, 66055.9, 70128.5, 78261.3, and 89267.3 to, the Education Code, and to add Article 5 (commencing with Section 128050) to Chapter 2 of Part 3 of Division 107 of the Health and Safety Code, relating to nursing education.

[Approved by Governor October 12, 2007. Filed with Secretary of State October 12, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 66055.8 is added to the Education Code, to read:

66055.8. Notwithstanding any other provision of law, a campus of the California State University or the California Community Colleges that operates a registered nursing program shall not require a student who has been admitted to that registered nursing program and who has already earned a baccalaureate or higher degree from a regionally accredited institution of higher education to complete general education requirements, but rather shall require that student to complete only the coursework that is necessary to prepare him or her for licensing as a registered nurse.

SEC. 2. Section 66055.9 is added to the Education Code, to read:

66055.9. Notwithstanding any other provision of law, any college, university, or other entity that operates an accredited registered nursing program may require any prospective student to provide criminal record clearance within the meaning of Section 1265.5 of the Health and Safety Code prior to enrollment.

SEC. 3. Section 70101 of the Education Code is amended to read:

70101. (a) Program participants shall meet all of the following eligibility criteria prior to selection into the program, and shall continue to meet these criteria, as appropriate, during the payment periods:

(1) The participant shall be a United States citizen or eligible noncitizen.

(2) The participant shall be a California resident attending, or having earned a baccalaureate or graduate level degree from, an eligible school or college.

(3) The participant shall be making satisfactory academic progress.

(4) The participant shall have complied with United States Selective Service requirements.

(5) The participant shall not owe a refund on any state or federal educational grant or have delinquent or defaulted student loans.

(b) Any person who has enrolled in, or graduated from, an institution of postsecondary education, and who is participating in the loan assumption program set forth in this article, may be eligible to receive a conditional warrant for loan assumption, to be redeemed pursuant to this chapter upon becoming employed as a full-time nursing faculty member at a California college or university or the equivalent of full-time service as a nursing faculty member employed part time at one or more California colleges or universities.

(c) (1) The commission shall award loan assumption agreements to undergraduate students with demonstrated academic ability and financial need, as determined by the commission pursuant to Article 1.5 (commencing with Section 69503) of Chapter 2, and to graduate students with demonstrated academic ability.

(2) The applicant shall have completed a baccalaureate level or graduate level degree program or be enrolled in an academic program leading to a baccalaureate level or a graduate level degree.

(3) The applicant shall be currently enrolled in, admitted to, or have successfully completed, a program in which he or she will be enrolled on at least a half-time basis each academic term as defined by an eligible institution. The applicant shall agree to maintain satisfactory academic progress.

(4) The applicant shall have been judged by his or her postsecondary institution to have outstanding ability on the basis of criteria that may include, but need not be limited to, any of the following:

(A) Grade point average.

(B) Test scores.

(C) Faculty evaluations.

(D) Interviews.

(E) Other recommendations.

(5) The applicant shall have received, or be approved to receive, a loan under one or more of the following designated loan programs:

(A) The Federal Family Education Loan Program (20 U.S.C. Sec. 1071 et seq.).

(B) The Federal Direct Loan Program.

(C) Any loan program approved by the commission.

(6) The applicant shall have agreed to teach nursing on a full-time basis at one or more accredited California colleges or universities for at least three years, or on a part-time basis for the equivalent of three full-time academic years, commencing not more than 12 months after obtaining an academic degree, unless the applicant, within 12 months after obtaining the academic degree, enrolls in an academic degree

program leading to a more advanced degree in nursing or a field related to nursing.

(7) An applicant who teaches on less than a full-time basis may participate in the program, but is not eligible for loan repayment until that person teaches for the equivalent of a full-time academic year.

(d) A person participating in the program pursuant to this section shall not receive more than one loan assumption agreement, and shall not be eligible to receive a grant pursuant to Article 3.51 (commencing with Section 78260) of Chapter 2 of Part 48.

SEC. 4. Section 70106 of the Education Code is amended to read:

70106. (a) The commission shall administer this article, and shall adopt rules and regulations for that purpose. The rules and regulations shall include, but need not be limited to, provisions regarding the period of time for which a warrant shall remain valid and the development of projections for funding purposes. In developing these rules and regulations, the commission shall solicit the advice of representatives from postsecondary education institutions, the Office of Statewide Health Planning and Development, and the nursing community.

(b) If a provision is added to this article and the commission deems it necessary to adopt a rule or regulation to implement that section, the commission shall develop and adopt that rule or regulation no later than six months after the operative date of the statute that adds the provision.

SEC. 5. Section 70120 of the Education Code is amended to read:

70120. (a) (1) Any person enrolled in an eligible institution, or any person who agrees to work full time as a registered nurse in a state-operated 24-hour facility that employs registered nurses, may be eligible to enter into an agreement for loan assumption, to be redeemed pursuant to Section 70122 upon becoming employed as a clinical registered nurse in a state-operated 24-hour facility that employs registered nurses and that has a clinical registered nurse vacancy rate of greater than 10 percent as reported annually to the commission by the Department of Personnel Administration pursuant to Section 70121. In order to be eligible to enter into an agreement for loan assumption, an applicant shall satisfy all of the conditions specified in subdivision (b).

(2) As used in this article, "eligible institution" means a postsecondary institution that is determined by the Student Aid Commission to meet both of the following requirements:

(A) The institution is eligible to participate in state and federal financial aid programs.

(B) The institution maintains an accredited program of professional preparation for licensing as a registered nurse in California.

(3) As used in this article, "state-operated 24-hour facility" includes, but is not necessarily limited to, a state-operated prison, psychiatric hospital, or veterans' home.

(b) (1) The applicant has been admitted to, or is enrolled in, or has successfully completed an accredited program of professional preparation for licensing as a registered nurse in California. However, a person who is currently employed as a registered nurse in a state-operated 24-hour facility may be eligible to enter into an agreement for loan assumption under Article 1 (commencing with Section 70100), but is not eligible to enter into an agreement for loan assumption under this article.

(2) The applicant is currently enrolled, or has been admitted to a program in which he or she will be enrolled, on a full-time basis, as determined by the participating institution. The applicant shall agree to maintain satisfactory academic progress and a minimum of full-time enrollment, as defined by the participating eligible institution.

(3) The applicant has been judged by his or her postsecondary institution to have outstanding ability on the basis of criteria that may include, but need not be limited to, any of the following:

(A) Grade point average.

(B) Test scores.

(C) Faculty evaluations.

(D) Interviews.

(E) Other recommendations.

(4) The applicant has received, or is approved to receive, a loan under one or more of the following designated loan programs:

(A) The Federal Family Education Loan Program (20 U.S.C. Sec. 1071 et seq.).

(B) Any loan program approved by the Student Aid Commission.

(5) The applicant has agreed to work full time for at least four consecutive years as a clinical registered nurse in a state-operated 24-hour facility that employs registered nurses and that has a clinical registered nurse vacancy rate of greater than 10 percent as reported annually to the commission by the Department of Personnel Administration.

(c) No applicant who has completed fewer than 60 semester units, or the equivalent, shall be eligible under this section to participate in the loan assumption program set forth in this article.

(d) An agreement shall remain valid even if the state-operated facility at which the applicant is employed ceases to be listed pursuant to Section 70121 after the applicant is employed there.

(e) A person participating in the program pursuant to this section shall not enter into more than one agreement.

SEC. 6. Section 70124 of the Education Code is amended to read:

70124. (a) Except as provided in subdivision (b), if a program participant fails to complete a minimum of four consecutive years of full-time employment as required by this article, under the terms of the agreement pursuant to paragraph (5) of subdivision (b) of Section 70120, the participant shall assume full liability for all student loan obligations remaining after the commission's assumption of loan liability for the last year of qualifying clinical registered nursing service pursuant to Section 70123.

(b) Notwithstanding subdivision (a), if a program participant becomes unable to complete one of the four consecutive years of qualifying clinical registered nursing service due to serious illness, pregnancy, or other natural causes, the term of the loan assumption agreement shall be extended for a period not to exceed one year. The commission shall make no further payments under the loan assumption agreement until the applicable work requirements as specified in Section 70122 have been satisfied.

(c) If a natural disaster prevents a program participant from completing one of the required years of work due to the interruption of employment at the employing state facility, the term of the loan assumption agreement shall be extended for the period of time equal to the period from the interruption of employment at the employing state facility to the resumption of employment. The commission shall make no further payments under the loan assumption agreement until the applicable employment requirements specified in Section 70123 have been satisfied.

SEC. 7. Section 70125 of the Education Code is amended to read:

70125. (a) The commission shall administer this article, and shall adopt rules and regulations for that purpose. The rules and regulations shall include, but need not be limited to, provisions regarding the period of time during which an agreement shall remain valid, the reallocation of resources in light of agreements that are not utilized by program participants, the failure, for any reason, of a program participant to complete a minimum of four consecutive years of qualifying clinical registered nursing service, and the development of projections for funding purposes.

(b) If a provision is added to this article and the commission deems it necessary to adopt a rule or regulation to implement that provision, the commission shall develop and adopt that rule or regulation no later than six months after the operative date of the statute that adds the provision.

SEC. 8. Section 70128.5 is added to the Education Code, to read:

70128.5. Notwithstanding any other provision of law, in any fiscal year, the commission shall award no more than the number of warrants that are authorized by the Governor and the Legislature in the annual

Budget Act for that year for the assumption of loans pursuant to this article.

SEC. 9. Section 78261 of the Education Code is amended to read:

78261. (a) The Legislature finds and declares both of the following:

(1) The Legislature intends to facilitate both the expansion of associate degree nursing programs and the improvement in completion rates in those programs.

(2) The Legislature also intends that community colleges employ nationally recognized diagnostic assessment tools that are aligned with national nursing licensure requirements. Both students and the state benefit when diagnostic assessments are supplemented with educational opportunities to assist students in meeting skill levels.

(b) It is the intent of the Legislature to create a Nursing Enrollment Growth and Retention program in the Chancellor's Office of the California Community Colleges. The purpose of this program shall be to provide grants to community college associate degree of nursing programs that meet either of the following conditions:

(1) The nursing program has low or moderate program attrition levels.

(2) The nursing program provides a comprehensive program of diagnostic assessment, prenursing preparation, and program-based support to students.

(c) (1) It is the intent of the Legislature that this program shall be funded, beginning in the 2006–07 fiscal year, by a redirection of the ten million dollars ($10,000,000) provided annually pursuant to the Budget Act of 2005, along with an additional investment of two million eight hundred eighty-six thousand dollars ($2,886,000) annually, for a total program budget of twelve million eight hundred eighty-six thousand dollars ($12,886,000) annually. Unencumbered funds that were appropriated in the Budget Act of 2005 may be used for capacity building and equipment in the 2006–07 fiscal year.

(2) Up to 3 percent of the funds appropriated for this program may be used for statewide administration, program development, program evaluation, and program accountability. As used in this paragraph, "program development" includes, but is not necessarily limited to, activities related to partnerships or collaborations between community colleges and institutions of higher education offering baccalaureate degrees in order to increase the number of students completing bachelor of the science of nursing (BSN), master of the science of nursing (MSN), and master's entry programs in nursing (MEPN) courses of study.

(d) The Board of Governors of the California Community Colleges may award grants to community college districts with associate degree nursing programs to expand enrollment, reduce program attrition, or both. Funds shall be used only for the following purposes: expanding

enrollment, providing diagnostic assessments, and offering preentry coursework to prospective nursing students and diagnostic assessments and supportive services to enrolled nursing students. For purposes of this section, supportive services include, but are not necessarily limited to, tutoring, case management, mentoring, and counseling services. Funds may also be used to develop alternative delivery models such as part-time, evening, weekend, and summer program offerings. In order to qualify for these funds, a community college associate degree nursing program shall do either of the following:

(1) Have a program attrition rate, as determined by the Board of Registered Nursing's Annual School Report or the Information Program Data System of the Chancellor's Office of the California Community Colleges, of 15 percent or less for the year prior to application for funding.

(2) Commit to implement a comprehensive program of diagnostic assessment, prenursing enrollment preparation, and program-based support to enrolled students, as defined in this article.

(e) Notwithstanding Section 78213 or any other provision of law, prior to awarding any funds to be used for reducing program attrition, the chancellor's office shall do all of the following:

(1) Identify, in collaboration with community college associate degree nursing programs, nationally recognized diagnostic assessment tools that determine the likelihood of academic success in community college registered nursing education programs.

(2) Establish, in collaboration with community college associate degree nursing programs, the systemwide proficiency level necessary for academic success for each diagnostic assessment tool.

(3) Define the kinds of educational and support services that qualify for funding under this program.

(f) As a condition of receiving grants under paragraph (2) of subdivision (d), a community college district shall, at a minimum, do all of the following:

(1) Utilize diagnostic assessment tools prior to enrollment to determine readiness for community college associate degree nursing programs.

(2) Offer, or identify, educational preentry coursework, including, but not necessarily limited to, tutorials, instructional resources, or noncredit instruction, aligned to the entry level nursing standards and curriculum for students who fail to demonstrate readiness based upon the diagnostic assessment tools.

(3) Provide access to prenursing coursework for all students who do not demonstrate readiness based upon the diagnostic assessment tools.

(4) Require that students demonstrate readiness through the diagnostic assessment or successful completion of the prenursing coursework specified above prior to commencing the registered nursing program.

(5) Ensure that students that participate in educational preentry coursework in order to demonstrate readiness based upon the diagnostic assessment tools are not disadvantaged in the program enrollment process.

(g) As a condition of receiving grant funds pursuant to paragraph (2) of subdivision (d), each recipient district shall report to the chancellor's office the following data for the academic year on or before a date determined by the chancellor's office:

(1) The number of students enrolled in the nursing program.

(2) The number of students taking diagnostic assessments.

(3) The number of students failing to meet proficiency levels as determined by diagnostic assessment tools.

(4) The number of students failing to meet proficiency levels that undertake preentry preparation classes.

(5) The number of students who successfully complete preentry preparation coursework.

(6) The average number of months between initial diagnostic assessment, demonstration of readiness, and enrollment in the nursing program for students failing to meet proficiency standards on the initial diagnostic assessment.

(7) The average number of months between diagnostic assessment and program enrollment for students meeting proficiency standards on the initial diagnostic assessment.

(8) The number of students who completed the associate degree nursing program and the number of students who pass the National Council Licensure Examination (NCLEX).

(h) (1) Data reported to the chancellor under this article shall be disaggregated by age, gender, ethnicity, and language spoken at home.

(2) The chancellor's office shall compile and provide this information to the Legislature and the Governor by March 1 of each year.

(i) It is the intent of the Legislature that, pursuant to funding to be provided in the annual Budget Act, in the 2009–10 academic year, the California Community Colleges should increase the statewide enrollment of full-time equivalent registered nursing students by 450 and, beginning in the 2010–11 academic year and continuing each academic year thereafter, add 900 new full-time equivalent registered nursing students.

SEC. 10. Section 78261.3 is added to the Education Code, to read:

78261.3. Notwithstanding any other provision of law:

(a) Any community college district, irrespective of whether it participates in the program established by this article, may use any

diagnostic assessment tool that is commonly used in registered nursing programs and is approved by the chancellor.

(b) If, after using an approved diagnostic assessment tool, a community college registered nursing program determines that the number of applicants to that program exceeds its capacity, the program is authorized to use additional multicriteria screening measures. This subdivision does not prohibit or prevent a community college registered nursing program from using an approved diagnostic assessment tool before or during a multicriteria screening process.

(c) A community college district may not exclude an applicant to a registered nursing program on the sole basis that the applicant is not a resident of that district or has not completed prerequisite courses in that district.

SEC. 11. Section 87482 of the Education Code is amended to read:

87482. (a) (1) Notwithstanding Section 87480, the governing board of a community college district may employ any qualified individual as a temporary faculty member for a complete school year but not less than a complete semester or quarter during a school year. The employment of those persons shall be based upon the need for additional faculty during a particular semester or quarter because of the higher enrollment of students during that semester or quarter as compared to the other semester or quarter in the academic year, or because a faculty member has been granted leave for a semester, quarter, or year, or is experiencing long-term illness, and shall be limited, in number of persons so employed, to that need, as determined by the governing board.

(2) Employment of a person under this subdivision may be pursuant to contract fixing a salary for the entire semester or quarter.

(b) No person, other than a person serving as clinical nursing faculty and exempted from this subdivision pursuant to paragraph (1) of subdivision (c), shall be employed by any one district under this section for more than two semesters or three quarters within any period of three consecutive years.

(c) (1) Notwithstanding subdivision (b), a person serving as full-time clinical nursing faculty or as part-time clinical nursing faculty teaching 60 percent or more of the hours per week considered a full-time assignment for regular employees may be employed by any one district under this section for up to four semesters or six quarters within any period of three consecutive academic years between July 1, 2007, and June 30, 2014, inclusive.

(2) A district that employs faculty pursuant to this subdivision shall provide data to the chancellor's office as to how many faculty members were hired under this subdivision, and what the ratio of full-time to part-time faculty was for each of the three academic years prior to the

hiring of faculty under this subdivision and for each academic year for which faculty is hired under this subdivision. This data shall be submitted, in writing, to the chancellor's office on or before June 30, 2012.

(3) The chancellor shall report, in writing, to the Legislature and the Governor on or before September 30, 2012, in accordance with data received pursuant to paragraph (2), how many districts hired faculty under this subdivision, how many faculty members were hired under this subdivision, and what the ratio of full-time to part-time faculty was for these districts in each of the three academic years prior to the operation of this subdivision and for each academic year for which faculty is hired under this subdivision.

(4) A district may not employ a person pursuant to this subdivision if the hiring of that person results in an increase in the ratio of part-time to full-time nursing faculty in that district.

SEC. 12. Section 89267 of the Education Code is amended to read:

89267. It is the intent of the Legislature:

(a) That, pursuant to funding to be appropriated in the Budget Act of 2007, the trustees should increase, by at least 340, the number of full-time equivalent students in baccalaureate degree nursing programs, beginning in the 2007–08 fiscal year.

(b) That the trustees provide a report to the Governor and the Legislature on or before March 15, 2007, on the proposed expenditure plans to expand nursing programs to enroll an additional 340 full-time equivalent students as a result of the funds appropriated in the Budget Act of 2007.

(c) To support the expansion of future baccalaureate degree nursing enrollment with annual appropriations in the State Budget Act.

(d) That the funding for the baccalaureate degree enrollment expansions referenced in this section be funded within the general enrollment growth funding that is traditionally provided to the California State University during the annual state budget process.

(e) To encourage the university, in providing programs under this article, to establish partnerships or collaborations with community colleges to facilitate the education of students in bachelor of the science of nursing (BSN) or entry-level master's nursing programs.

SEC. 13. Section 89267.3 is added to the Education Code, to read:

89267.3. The California State University may establish priorities for admission to baccalaureate degree nursing programs, but it shall not disqualify or prohibit any student who possesses a baccalaureate or higher degree from enrolling in, and completing, a baccalaureate degree nursing program on the sole basis of that student's possession of the degree.

SEC. 14. Section 92645 of the Education Code is amended to read:

92645. It is the intent of the Legislature that all of the following occur:

(a) That, pursuant to funding to be appropriated in the Budget Act of 2007, the Regents of the University of California should offer at least 175 full-time equivalent students in baccalaureate degree nursing programs, at least 140 state-supported full-time equivalent students in accelerated master's level nursing programs, including entry-level master's programs and entry-level master's clinical programs, at least 41 full-time equivalent associate degree nursing (ADN) transitional to bachelor's of science of nursing (BSN) and full-time equivalent master of science of nursing (MSN) students, and at least 40 full-time equivalent students in traditional master of science in nursing (MSN) degree programs by the 2007–08 academic year.

(b) That the regents provide a report to the Governor and the Legislature on or before March 15, 2007, on the proposed expenditure plans to expand nursing programs to enroll the additional students identified in subdivision (a).

(c) That the expansion of future baccalaureate, accelerated master's degree, ADN transitional to BSN and MSN degrees, and traditional MSN degree nursing enrollment be supported with appropriations in the annual Budget Act.

(d) That the funding for the baccalaureate degree enrollment expansions referenced in this section be funded within the general enrollment growth funding that is traditionally provided to the University of California during the annual state budget process.

SEC. 15. Article 5 (commencing with Section 128050) is added to Chapter 2 of Part 3 of Division 107 of the Health and Safety Code, to read:

Article 5. Health Care Workforce Clearinghouse

128050. The Office of Statewide Health Planning and Development shall establish a health care workforce clearinghouse to serve as the central source of health care workforce and educational data in the state. The clearinghouse shall be responsible for the collection, analysis, and distribution of information on the educational and employment trends for health care occupations in the state. The activities of the clearinghouse shall be funded by appropriations made from the California Health Data and Planning Fund in accordance with subdivision (h) of Section 127280.

128051. The Office of Statewide Health Planning and Development shall work with the Employment Development Department's Labor Market Information Division, state licensing boards, and state higher

education entities to collect, to the extent available, all of the following data:

(a) The current supply of health care workers, by specialty.

(b) The geographical distribution of health care workers, by specialty.

(c) The diversity of the health care workforce, by specialty, including, but not necessarily limited to, data on race, ethnicity, and languages spoken.

(d) The current and forecasted demand for health care workers, by specialty.

(e) The educational capacity to produce trained, certified, and licensed health care workers, by specialty and by geographical distribution, including, but not necessarily limited to, the number of educational slots, the number of enrollments, the attrition rate, and wait time to enter the program of study.

128052. The Office of Statewide Health Planning and Development shall prepare an annual report to the Legislature that does all of the following:

(a) Identifies education and employment trends in the health care profession.

(b) Reports on the current supply and demand for health care workers in California and gaps in the educational pipeline producing workers in specific occupations and geographic areas.

(c) Recommends state policy needed to address issues of workforce shortage and distribution.

CHAPTER 523

An act to amend Sections 92020 and 92032 of, and to add Sections 66602.5 and 66602.7 to, the Education Code, relating to public postsecondary education.

[Approved by Governor October 12, 2007. Filed with Secretary of State October 12, 2007.]

The people of the State of California do enact as follows:

SECTION 1. This act shall be known, and may be cited, as the Higher Education Governance Accountability Act.

SEC. 2. Section 66602.5 is added to the Education Code, to read:

66602.5. All meetings of the trustees shall, except as otherwise provided in Section 66602.7, be subject to Article 9 (commencing with

Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 3. Section 66602.7 is added to the Education Code, to read:

66602.7. Notwithstanding Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code:

(a) (1) Action taken by a committee of the trustees and final action by the full board of trustees, on a proposal for the compensation package of the following executive officers shall occur in an open session of each of those bodies, and shall include a disclosure of the compensation package and rationale for the action:

(A) The Chancellor of the California State University.

(B) The president of an individual campus.

(C) A vice chancellor.

(D) The treasurer.

(E) The general counsel.

(F) The trustees' secretary.

(2) Members of the public shall be afforded the opportunity to address the committee and full board on the proposal during or before consideration of the action item.

(b) Discussion by a committee of the trustees of, and action on, an executive compensation program or policy, and any final action by the full board of trustees on that program or policy, shall occur in open session of each of those bodies.

(c) Compensation for the principal officers of the trustees and the officers of the university shall include salary, benefits, perquisites, severance payments (except those made in connection with a dismissal or a litigation settlement), retirement benefits, or any other form of compensation.

SEC. 4. Section 92020 of the Education Code is amended to read:

92020. (a) As used in this article, "Regents of the University of California" means any of the following:

(1) The Board of Regents of the University of California.

(2) The standing and special committees or subcommittees of the Board of Regents.

(3) An advisory board, advisory commission, advisory committee, advisory subcommittee, study group, task force, or similar multimember advisory body of the Board of Regents that has continuing subject matter jurisdiction in the area of compensation, if created by formal action of the Board of Regents or of any member of the Board of Regents, and if the advisory body so created consists of one or more regents, other than ex officio members of the Board of Regents. An advisory group the

purpose of which is to recruit executives for the university is excluded from this paragraph.

(b) As used in this article, "Regents of the University of California" does not include groups of three or fewer regents appointed to advise and assist the university administration in contract negotiations.

SEC. 5. Section 92032 of the Education Code is amended to read:

92032. Notwithstanding Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code:

(a) The Regents of the University of California, as occasioned by necessity, may hold special meetings. The regents shall give public notice for these meetings. This notice shall be given by means of a notice hand delivered or mailed to each newspaper of general circulation and television or radio station that has requested notice in writing, so that the notice may be published or broadcast at least 72 hours before the time of the meeting. The notice shall specify the time, place, and agenda of the special meeting. The regents shall not consider any business not included in the agenda portion of the notice. Failure to comply with this subdivision shall not be excused by the fact that no action was taken at the special meeting.

(b) The Regents of the University of California may conduct closed sessions when they meet to consider or discuss any of the following matters:

(1) Matters affecting national security.

(2) The conferring of honorary degrees or other honors or commemorations.

(3) Matters involving gifts, devises, and bequests.

(4) Matters involving the purchase or sale of investments for endowment and pension funds.

(5) Matters involving litigation, when discussion in open session concerning those matters would adversely affect, or be detrimental to, the public interest.

(6) The acquisition or disposition of property, if discussion of these matters in open session could adversely affect the regents' ability to acquire or dispose of the property on the terms and conditions they deem to be in the best public interest.

(7) (A) Matters concerning the appointment, employment, performance, compensation, or dismissal of university officers or employees, excluding individual regents other than the president of the university.

(B) (i) Action taken by a committee of the regents, and final action by the full board of regents, on a proposal for the compensation package of the following executive officers shall occur in an open session of each

of those bodies, and shall include a disclosure of the compensation package and rationale for the action:

(I) The President of the University of California.

(II) The chancellor of an individual campus.

(III) A vice president.

(IV) The treasurer or the assistant treasurer.

(V) The general counsel.

(VI) The regents' secretary.

(ii) Members of the public shall be afforded the opportunity to address the committee and full board on the proposal during or before consideration of the action item.

(C) Discussion by a committee of the regents of, and action on, an executive compensation program or policy, and any final action by the full board of regents on that program or policy, shall occur in open session of each of those bodies.

(D) Compensation for the principal officers of the regents and the officers of the university shall include salary, benefits, perquisites, severance payments (except those made in connection with a dismissal or a litigation settlement), retirement benefits, or any other form of compensation.

(8) Matters relating to complaints or charges brought against university officers or employees, excluding individual regents other than the president of the university, unless the officer or employee requests a public hearing.

(c) While a witness is being examined during any open or closed session, any or all other witnesses in the investigation may be excluded from the proceedings by the regents.

(d) Committees of the regents may conduct closed sessions on Medi-Cal contract negotiations.

(e) The nominating committee of the regents may conduct closed sessions held for the purpose of proposing officers of the board and members of the board's various committees.

(f) Committees of the regents may conduct closed sessions held for the purpose of proposing a student regent.

(g) The regents shall not be required to give public notice of meetings of special search or selection committees held for the purpose of conducting interviews for university officer positions.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the

definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CHAPTER 524

An act to amend Sections 45038, 45039, 45040, and 49110 of, and to add Section 47612.7 to, the Education Code, relating to charter schools, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 12, 2007. Filed with Secretary of State October 12, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 45038 of the Education Code is amended to read:

45038. (a) The governing board of a school district or charter school may arrange to pay the persons in positions requiring certification qualifications employed by it, or any one or more of those employees or one or more groups or categories of those employees, in either 10, 11, or 12 equal payments instead of by the school month.

(b) In lieu of the arrangement in subdivision (a), orders for the payment of salary, and payroll orders for the payment of salary and warrants for the payment of salary of employees employed in positions requiring certification qualifications may be drawn once each two weeks, twice a month, or once each four weeks as determined by the governing board.

SEC. 2. Section 45039 of the Education Code is amended to read:

45039. If the governing board of a school district or charter school arranges to pay persons employed by it in 12 equal payments for the year, it may pay each monthly installment at the end of each calendar month, whether or not the persons are actually engaged in teaching during the month.

SEC. 3. Section 45040 of the Education Code is amended to read:

45040. (a) The governing board of a school district or charter school not paying the annual salaries of persons employed by the district or charter school in 12 equal monthly payments may withhold from each payment made to each employee an amount equal to 16 2/3 percent thereof.

(b) The total of the amounts deducted from the salary of an employee during a school year shall be paid to him or her in two equal installments, one installment to be paid not later than the fifth day of August next

succeeding, and one installment to be paid not later than the fifth day of September next succeeding.

(c) If an employee leaves the service of the district or charter school by death or otherwise before receiving the moneys that may be due him or her, the amount due him or her shall be paid within 30 days to him or her or to any other person entitled to those moneys by law.

SEC. 4. Section 47612.7 is added to the Education Code, to read:

47612.7. Notwithstanding Section 47612.5 or any other provision of law, the Center for Advanced Research and Technology operating pursuant to a joint powers agreement between the Clovis Unified School District and the Fresno Unified School District is eligible to receive general-purpose funding, as calculated pursuant to Section 47633, for the 2007–08 fiscal year for a total average daily attendance not to exceed the center's average daily attendance as determined at the second principal apportionment for the 2006–07 fiscal year.

SEC. 5. Section 49110 of the Education Code is amended to read:

49110. (a) It is the intent of the Legislature that school district and charter school personnel responsible for issuing work permits to pupils have a working knowledge of California labor laws as they relate to minors and be trained to provide the pupils practical personal guidance in career education.

(b) The superintendent of any school district in which any minor resides, the chief executive officer, or the equivalent position, of a charter school that a minor attends, a person holding a services credential with a specialization in pupil personnel services authorized by the superintendent or chief executive officer in writing, or a certificated work experience education teacher or coordinator authorized by the superintendent or chief executive officer in writing, may issue work permits to certain minors. If the minor resides in a portion of a county not under the jurisdiction of the superintendent of a school district and does not attend a charter school, the work permit shall be issued by the county superintendent of schools, by a person holding a services credential with a specialization in pupil personnel services authorized by the county superintendent in writing, or a certificated work experience education teacher or coordinator authorized by the county superintendent in writing.

(c) A work permit shall not be issued until the written request therefor from the parent, guardian, foster parent, caregiver with whom the minor resides, or residential shelter services provider, has been filed with the issuing authority. "Residential shelter services" refers to residential and other support services provided to minors by a governmental agency, a person or agency under contract with a governmental agency to provide these services, an agency receiving funding from community funds, or

a licensed community care facility or crisis resolution center on a temporary or emergency basis in a facility that services only minors.

(d) If the certificated person designated to issue work permits by the superintendent of a school district or the chief executive officer, or the equivalent position, of a charter school is not available, and delay in issuing a permit would jeopardize the ability of a pupil to secure work, another person authorized by the school district superintendent or the chief executive officer, or the equivalent position, of a charter school may issue the work permit.

(e) If a school district or charter school does not employ or contract with a person holding a services credential with a specialization in pupil personnel services or with a certificated work experience education teacher or coordinator, the school district superintendent or the chief executive officer, or the equivalent position, of a charter school may authorize, in writing, a person who does not hold that credential to issue work permits during periods of time in which the superintendent is absent from the district or the chief executive officer is absent from the charter school.

SEC. 5.5. Section 49110 of the Education Code is amended to read:

49110. (a) An individual responsible for issuing work permits to pupils pursuant to this section shall have a working knowledge of California labor laws as they relate to minors and of education laws related to work permits.

(b) A certificated employee of a school district who is authorized in writing by the superintendent of the school district in which the employee works may issue a permit to work to a minor enrolled in the school. A principal authorized by the superintendent of the school district may in turn designate certificated employees at the schoolsite to issue work permits.

(c) The chief executive officer, or the equivalent position, of a charter school, or his or her designee, may issue a permit to work to a minor attending that charter school.

(d) A permit to work shall not be issued until the written request therefor from the parent, guardian, foster parent, caregiver with whom the minor resides, or residential shelter services provider, has been filed with the issuing authority. "Residential shelter services" refers to residential and other support services provided to minors by a governmental agency, a person or agency under contract with a governmental agency to provide these services, an agency receiving funding from community funds, or a licensed community care facility or crisis resolution center on a temporary or emergency basis in a facility that services only minors.

(e) If the certificated employee designated by the superintendent of the school district to issue work permits is not available, and delay in issuing a permit would jeopardize the ability of a pupil to secure work, another certificated employee authorized by the superintendent may issue the work permit.

(f) A permit to work shall not be issued to a pupil by a person who may request a work permit for that pupil pursuant to subdivision (d).

(g) The county superintendent of schools or his or her designee may issue a work permit to a pupil who does not attend a school that has a person authorized to issue a work permit to that pupil, provided that the person issuing the work permit complies with Section 49110.2 in reviewing the academic and attendance records of the pupil prior to issuing a work permit. It is the intent of the Legislature in granting the authority pursuant to this subdivision to ensure that all pupils have a designated individual to whom they may apply to receive a work permit.

SEC. 6. Section 5.5 of this bill shall only become operative if (1) this bill and SB 406 are both enacted and become effective on or before January 1, 2008, (2) each bill amends Section 49110 of the Education Code, and (3) this bill is enacted after SB 406, in which case Section 5 of this bill shall not become operative. Except for subdivision (c) of Section 49110 of the Education Code, as added by Section 5.5 of this bill, the changes made by Section 5.5, if applicable, shall be implemented commencing at the beginning of the 2008–09 school year.

SEC. 7. Due to the unique circumstances concerning the Center for Advanced Research and Technology, the Legislature finds and declares that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution.

SEC. 8. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure that charter schools that are established and operated pursuant to joint powers agreements are eligible to receive classroom-based instruction apportionments based on average daily attendance for the 2002–03 to 2007–08 fiscal years, inclusive, at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 525

An act to amend Section 1 of Chapter 58 of the Statutes of 1997, relating to charter schools.

[Approved by Governor October 12, 2007. Filed with
Secretary of State October 12, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 1 of Chapter 58 of the Statutes of 1997, as amended by Chapter 467 of the Statutes of 2002, is amended to read:

Section 1. (a) A charter school operating under a charter approved before June 1, 1997, by the county board of education of a county of the first class to serve at-risk pupils, may operate until June 30, 2013. The continuation of the authority of a charter school to operate pursuant to this subdivision after June 30, 2008, shall be subject to the approval of that county board of education.

(b) Notwithstanding any other provisions of the Education Code, except as set forth in subdivision (c), for the 2007–08 to 2012–13 fiscal years, inclusive, the attendance of pupils in a charter school to which this section applies shall be funded at the same rates for the same categories of pupils as community schools and community day schools in the same county.

(c) A charter school operated pursuant to subdivision (a) may, if its charter so provides, operate one or more community day schools in compliance with Article 3 (commencing with Section 48660) of Chapter 4 of Part 27 of the Education Code, except for compliance with the employment requirements in subdivision (a) of Section 48663 and subdivision (c) of Section 48664 of the Education Code, and the funded average daily attendance limitations of paragraphs (1) and (2) of subdivision (a) of Section 48664 of the Education Code, and be funded for not more than 2,000 units of average daily attendance in any fiscal year, to the extent that funding is appropriated therefor, pursuant to subdivision (a) of Section 48664 of the Education Code, as if it were a community day school operated by a county. The average daily attendance of a charter school operating pursuant to this section shall not be in addition to the average daily attendance limitation provided pursuant to subdivision (a) of Section 48664 of the Education Code.

(d) A county board of education that has approved a charter school as set forth in subdivision (a) shall establish specific accountability criteria to annually measure the performance of the charter school. The county board of education shall annually report the measurement to the State Department of Education, the Department of Finance, the Assembly Committee on Education, the Assembly Committee on Appropriations, the Senate Committee on Education, and the Senate Committee on Appropriations. The accountability criteria shall comply with the

alternative accountability system described by subdivision (h) of Section 52052 of the Education Code.

(e) If a charter school does not comply with the performance criteria described in subdivision (d), the charter school shall submit to the county board of education a plan for improvement that is designed to enable the charter school to comply with the criteria within a time determined by the county board of education.

SEC. 2. Due to the unique circumstances resulting from the intensely urbanized nature of the County of Los Angeles, it is necessary to extend the authorization for charter schools as set forth in Section 1, and the Legislature finds and declares that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution.

CHAPTER 526

An act to amend Sections 1240, 35186, 37254, 52378, and 52380 of the Education Code, relating to pupil instruction, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 12, 2007. Filed with Secretary of State October 12, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 1240 of the Education Code is amended to read:

1240. The county superintendent of schools shall do all of the following:

(a) Superintend the schools of his or her county.

(b) Maintain responsibility for the fiscal oversight of each school district in his or her county pursuant to the authority granted by this code.

(c) (1) Visit and examine each school in his or her county at reasonable intervals to observe its operation and to learn of its problems. He or she annually may present a report of the state of the schools in his or her county, and of his or her office, including, but not limited to, his or her observations while visiting the schools, to the board of education and the board of supervisors of his or her county.

(2) (A) For fiscal years 2004–05 to 2006–07, inclusive, to the extent that funds are appropriated for purposes of this paragraph, the county superintendent, or his or her designee, annually shall submit a report, at

a regularly scheduled November board meeting, to the governing board of each school district under his or her jurisdiction, the county board of education of his or her county, and the board of supervisors of his or her county describing the state of the schools in the county or of his or her office that are ranked in deciles 1 to 3, inclusive, of the 2003 base Academic Performance Index (API), as defined in subdivision (b) of Section 17592.70, and shall include, among other things, his or her observations while visiting the schools and his or her determinations for each school regarding the status of all of the circumstances listed in subparagraph (J) and teacher misassignments and teacher vacancies. As a condition for receipt of funds, the county superintendent, or his or her designee, shall use a standardized template to report the circumstances listed in subparagraph (J) and teacher misassignments and teacher vacancies, unless the current annual report being used by the county superintendent, or his or her designee, already includes those details for each school.

(B) Commencing with the 2007–08 fiscal year, to the extent that funds are appropriated for purposes of this paragraph, the county superintendent, or his or her designee, annually shall submit a report, at a regularly scheduled November board meeting, to the governing board of each school district under his or her jurisdiction, the county board of education of his or her county, and the board of supervisors of his or her county describing the state of the schools in the county or of his or her office that are ranked in deciles 1 to 3, inclusive, of the 2006 base API, pursuant to Section 52056. As a condition for the receipt of funds, the annual report shall include the determinations for each school made by the county superintendent, or his or her designee, regarding the status of all of the circumstances listed in subparagraph (J) and teacher misassignments and teacher vacancies, and the county superintendent, or his or her designee, shall use a standardized template to report the circumstances listed in subparagraph (J) and teacher misassignments and teacher vacancies, unless the current annual report being used by the county superintendent, or his or her designee, already includes those details with the same level of specificity that is otherwise required by this subdivision. For purposes of this section, schools ranked in deciles 1 to 3, inclusive, on the 2006 base API shall include schools determined by the department to meet either of the following:

(i) The school meets all of the following criteria:

(I) Does not have a valid base API score for 2006.

(II) Is operating in fiscal year 2007–08 and was operating in fiscal year 2006–07 during the Standardized Testing and Reporting (STAR) Program testing period.

(III) Has a valid base API score for 2005 that was ranked in deciles 1 to 3, inclusive, in that year.

(ii) The school has an estimated base API score for 2006 that would be in deciles 1 to 3, inclusive.

(C) The department shall estimate an API score for any school meeting the criteria of subclauses (I) and (II) of clause (i) of subparagraph (B) and not meeting the criteria of subclause (III) of clause (i) of subparagraph (B), using available test scores and weighting or corrective factors it deems appropriate. The department shall post the API scores on its Internet Web site on or before May 1.

(D) For purposes of this section, references to schools ranked in deciles 1 to 3, inclusive, on the 2006 base API shall exclude schools operated by county offices of education pursuant to Section 56140, as determined by the department.

(E) In addition to the requirements above, the county superintendent, or his or her designee, annually shall verify both of the following:

(i) That pupils who have not passed the high school exit examination by the end of grade 12 are informed that they are entitled to receive intensive instruction and services for up to two consecutive academic years after completion of grade 12 or until the pupil has passed both parts of the high school exit examination, whichever comes first, pursuant to paragraphs (4) and (5) of subdivision (d) of Section 37254.

(ii) That pupils who have elected to receive intensive instruction and services, pursuant to paragraphs (4) and (5) of subdivision (d) of Section 37254, are being served.

(F) (i) Commencing with the 2010–11 fiscal year and every third year thereafter, the Superintendent shall identify a list of schools ranked in deciles 1 to 3, inclusive, of the API for which the county superintendent, or his or her designee, annually shall submit a report, at a regularly scheduled November board meeting, to the governing board of each school district under his or her jurisdiction, the county board of education of his or her county, and the board of supervisors of his or her county that describes the state of the schools in the county or of his or her office that are ranked in deciles 1 to 3, inclusive, of the base API as defined in clause (ii).

(ii) For the 2010–11 fiscal year, the list of schools ranked in deciles 1 to 3, inclusive, of the base API shall be updated using the criteria set forth in clauses (i) and (ii) of subparagraph (B), subparagraph (C), and subparagraph (D), as applied to the 2009 base API and thereafter shall be updated every third year using the criteria set forth in clauses (i) and (ii) of subparagraph (B), subparagraph (C), and subparagraph (D), as applied to the base API of the year preceding the third year consistent with clause (i).

(iii) As a condition for the receipt of funds, the annual report shall include the determinations for each school made by the county superintendent, or his or her designee, regarding the status of all of the circumstances listed in subparagraph (J) and teacher misassignments and teacher vacancies, and the county superintendent, or his or her designee, shall use a standardized template to report the circumstances listed in subparagraph (J) and teacher misassignments and teacher vacancies, unless the current annual report being used by the county superintendent, or his or her designee, already includes those details with the same level of specificity that is otherwise required by this subdivision.

(G) The county superintendent of the Counties of Alpine, Amador, Del Norte, Mariposa, Plumas, and Sierra, and the City and County of San Francisco shall contract with another county office of education or an independent auditor to conduct the required visits and make all reports required by this paragraph.

(H) On a quarterly basis, the county superintendent, or his or her designee, shall report the results of the visits and reviews conducted that quarter to the governing board of the school district at a regularly scheduled meeting held in accordance with public notification requirements. The results of the visits and reviews shall include the determinations of the county superintendent, or his or her designee, for each school regarding the status of all of the circumstances listed in subparagraph (J) and teacher misassignments and teacher vacancies. If the county superintendent, or his or her designee, conducts no visits or reviews in a quarter, the quarterly report shall report that fact.

(I) The visits made pursuant to this paragraph shall be conducted at least annually and shall meet the following criteria:

(i) Minimize disruption to the operation of the school.

(ii) Be performed by individuals who meet the requirements of Section 45125.1.

(iii) Consist of not less than 25 percent unannounced visits in each county. During unannounced visits in each county, the county superintendent shall not demand access to documents or specific school personnel. Unannounced visits shall only be used to observe the condition of school repair and maintenance, and the sufficiency of instructional materials, as defined by Section 60119.

(J) The priority objective of the visits made pursuant to this paragraph shall be to determine the status of all of the following circumstances:

(i) Sufficient textbooks as defined in Section 60119 and as specified in subdivision (i).

(ii) The condition of a facility that poses an emergency or urgent threat to the health or safety of pupils or staff as defined in district policy or paragraph (1) of subdivision (c) of Section 17592.72.

(iii) The accuracy of data reported on the school accountability report card with respect to the availability of sufficient textbooks and instructional materials, as defined by Section 60119, and the safety, cleanliness, and adequacy of school facilities, including good repair as required by Sections 17014, 17032.5, 17070.75, and 17089.

(iv) The extent to which pupils who have not passed the high school exit examination by the end of grade 12 are informed that they are entitled to receive intensive instruction and services for up to two consecutive academic years after completion of grade 12 or until the pupil has passed both parts of the high school exit examination, whichever comes first, pursuant to paragraphs (4) and (5) of subdivision (d) of Section 37254.

(v) The extent to which pupils who have elected to receive intensive instruction and services, pursuant to paragraphs (4) and (5) of subdivision (d) of Section 37254, are being served.

(K) The county superintendent may make the status determinations described in subparagraph (J) during a single visit or multiple visits. In determining whether to make a single visit or multiple visits for this purpose, the county superintendent shall take into consideration factors such as cost-effectiveness, disruption to the schoolsite, deadlines, and the availability of qualified reviewers.

(L) If the county superintendent determines that the condition of a facility poses an emergency or urgent threat to the health or safety of pupils or staff as defined in district policy or paragraph (1) of subdivision (c) of Section 17592.72, or is not in good repair, as specified in subdivision (d) of Section 17002 and required by Sections 17014, 17032.5, 17070.75, and 17089, the county superintendent, among other things, may do any of the following:

(i) Return to the school to verify repairs.

(ii) Prepare a report that specifically identifies and documents the areas or instances of noncompliance if the district has not provided evidence of successful repairs within 30 days of the visit of the county superintendent or, for major projects, has not provided evidence that the repairs will be conducted in a timely manner. The report may be provided to the governing board of the school district. If the report is provided to the school district, it shall be presented at a regularly scheduled meeting held in accordance with public notification requirements. The county superintendent shall post the report on his or her Internet Web site. The report shall be removed from the Internet Web site when the county superintendent verifies the repairs have been completed.

(d) Distribute all laws, reports, circulars, instructions, and blanks that he or she may receive for the use of the school officers.

(e) Annually, on or before August 15, present a report to the governing board of the school district and the Superintendent regarding the fiscal solvency of a school district with a disapproved budget, qualified interim certification, or a negative interim certification, or that is determined to be in a position of fiscal uncertainty pursuant to Section 42127.6.

(f) Keep in his or her office the reports of the Superintendent.

(g) Keep a record of his or her official acts, and of all the proceedings of the county board of education, including a record of the standing, in each study, of all applicants for certificates who have been examined, which shall be open to the inspection of an applicant or his or her authorized agent.

(h) Enforce the course of study.

(i) (1) Enforce the use of state textbooks and instructional materials and of high school textbooks and instructional materials regularly adopted by the proper authority in accordance with Section 51050.

(2) For purposes of this subdivision, sufficient textbooks or instructional materials has the same meaning as in subdivision (c) of Section 60119.

(3) (A) Commencing with the 2005–06 school year, if a school is ranked in any of deciles 1 to 3, inclusive, of the base API, as specified in paragraph (2) of subdivision (c), and not currently under review pursuant to a state or federal intervention program, the county superintendent specifically shall review that school at least annually as a priority school. A review conducted for purposes of this paragraph shall be completed by the fourth week of the school year. For the 2004–05 fiscal year only, the county superintendent shall make a diligent effort to conduct a visit to each school pursuant to this paragraph within 120 days of receipt of funds for this purpose.

(B) In order to facilitate the review of instructional materials before the fourth week of the school year, the county superintendent in a county with 200 or more schools that are ranked in any of deciles 1 to 3, inclusive, of the base API, as specified in paragraph (2) of subdivision (c), may utilize a combination of visits and written surveys of teachers for the purpose of determining sufficiency of textbooks and instructional materials in accordance with subparagraph (A) of paragraph (1) of subdivision (a) of Section 60119 and as defined in subdivision (c) of Section 60119. If a county superintendent elects to conduct written surveys of teachers, the county superintendent shall visit the schools surveyed within the same academic year to verify the accuracy of the information reported on the surveys. If a county superintendent surveys teachers at a school in which the county superintendent has found

sufficient textbooks and instructional materials for the previous two consecutive years and determines that the school does not have sufficient textbooks or instructional materials, the county superintendent shall within 10 business days provide a copy of the insufficiency report to the school district as set forth in paragraph (4).

(C) For purposes of this paragraph, "written surveys" may include paper and electronic or online surveys.

(4) If the county superintendent determines that a school does not have sufficient textbooks or instructional materials in accordance with subparagraph (A) of paragraph (1) of subdivision (a) of Section 60119 and as defined by subdivision (c) of Section 60119, the county superintendent shall do all of the following:

(A) Prepare a report that specifically identifies and documents the areas or instances of noncompliance.

(B) Provide within five business days of the review, a copy of the report to the school district, as provided in subdivision (c), or, if applicable, provide a copy of the report to the school district within 10 business days pursuant to subparagraph (B) of paragraph (3).

(C) Provide the school district with the opportunity to remedy the deficiency. The county superintendent shall ensure remediation of the deficiency no later than the second month of the school term.

(D) If the deficiency is not remedied as required pursuant to subparagraph (C), the county superintendent shall request the department to purchase the textbooks or instructional materials necessary to comply with the sufficiency requirement of this subdivision. If the department purchases textbooks or instructional materials for the school district, the department shall issue a public statement at the first regularly scheduled meeting of the state board occurring immediately after the department receives the request of the county superintendent and that meets the applicable public notice requirements, indicating that the district superintendent and the governing board of the school district failed to provide pupils with sufficient textbooks or instructional materials as required by this subdivision. Before purchasing the textbooks or instructional materials, the department shall consult with the district to determine which textbooks or instructional materials to purchase. All purchases of textbooks or instructional materials shall comply with Chapter 3.25 (commencing with Section 60420) of Part 33. The amount of funds necessary for the purchase of the textbooks and materials is a loan to the school district receiving the textbooks or instructional materials. Unless the school district repays the amount owed based upon an agreed-upon repayment schedule with the Superintendent, the Superintendent shall notify the Controller and the Controller shall deduct an amount equal to the total amount used to purchase the textbooks and

materials from the next principal apportionment of the district or from another apportionment of state funds.

(j) Preserve carefully all reports of school officers and teachers.

(k) Deliver to his or her successor, at the close of his or her official term, all records, books, documents, and papers belonging to the office, taking a receipt for them, which shall be filed with the department.

(*l*) (1) Submit two reports during the fiscal year to the county board of education in accordance with the following:

(A) The first report shall cover the financial and budgetary status of the county office of education for the period ending October 31. The second report shall cover the period ending January 31. Both reports shall be reviewed by the county board of education and approved by the county superintendent no later than 45 days after the close of the period being reported.

(B) As part of each report, the county superintendent shall certify in writing whether or not the county office of education is able to meet its financial obligations for the remainder of the fiscal year and, based on current forecasts, for two subsequent fiscal years. The certifications shall be classified as positive, qualified, or negative, pursuant to standards prescribed by the Superintendent, for the purposes of determining subsequent state agency actions pursuant to Section 1240.1. For purposes of this subdivision, a negative certification shall be assigned to a county office of education that, based upon current projections, will not meet its financial obligations for the remainder of the fiscal year or for the subsequent fiscal year. A qualified certification shall be assigned to a county office of education that may not meet its financial obligations for the current fiscal year or two subsequent fiscal years. A positive certification shall be assigned to a county office of education that will meet its financial obligations for the current fiscal year and subsequent two fiscal years. In accordance with those standards, the Superintendent may reclassify a certification. If a county office of education receives a negative certification, the Superintendent, or his or her designee, may exercise the authority set forth in subdivision (c) of Section 1630. Copies of each certification, and of the report containing that certification, shall be sent to the Superintendent at the time the certification is submitted to the county board of education. Copies of each qualified or negative certification and the report containing that certification shall be sent to the Controller at the time the certification is submitted to the county board of education.

(2) All reports and certifications required under this subdivision shall be in a format or on forms prescribed by the Superintendent, and shall be based on standards and criteria for fiscal stability adopted by the state board pursuant to Section 33127. The reports and supporting data shall

be made available by the county superintendent to an interested party upon request.

(3) This subdivision does not preclude the submission of additional budgetary or financial reports by the county superintendent to the county board of education or to the Superintendent.

(4) The county superintendent is not responsible for the fiscal oversight of the community colleges in the county, however, he or she may perform financial services on behalf of those community colleges.

(m) If requested, act as agent for the purchase of supplies for the city and high school districts of his or her county.

(n) For purposes of Section 44421.5, report to the Commission on Teacher Credentialing the identity of a certificated person who knowingly and willingly reports false fiscal expenditure data relative to the conduct of an educational program. This requirement applies only if, in the course of his or her normal duties, the county superintendent discovers information that gives him or her reasonable cause to believe that false fiscal expenditure data relative to the conduct of an educational program has been reported.

SEC. 2. Section 35186 of the Education Code is amended to read:

35186. (a) A school district shall use the uniform complaint process it has adopted as required by Chapter 5.1 (commencing with Section 4600) of Title 5 of the California Code of Regulations, with modifications, as necessary, to help identify and resolve any deficiencies related to instructional materials, emergency or urgent facilities conditions that pose a threat to the health and safety of pupils or staff, teacher vacancy or misassignment, and intensive instruction and services provided pursuant to Section 37254 to pupils who have not passed one or both parts of the high school exit examination after the completion of grade 12.

(1) A complaint may be filed anonymously. A complainant who identifies himself or herself is entitled to a response if he or she indicates that a response is requested. A complaint form shall include a space to mark to indicate whether a response is requested. If Section 48985 is otherwise applicable, the response, if requested, and report shall be written in English and the primary language in which the complaint was filed. All complaints and responses are public records.

(2) The complaint form shall specify the location for filing a complaint. A complainant may add as much text to explain the complaint as he or she wishes.

(3) Except as provided pursuant to paragraph (4), a complaint shall be filed with the principal of the school or his or her designee. A complaint about problems beyond the authority of the school principal

shall be forwarded in a timely manner but not to exceed 10 working days to the appropriate school district official for resolution.

(4) A complaint regarding any deficiencies related to intensive instruction and services provided pursuant to Section 37254 to pupils who have not passed one or both parts of the high school exit examination after the completion of grade 12 shall be submitted to the district official designated by the district superintendent. A complaint may be filed at the school district office, or it may be filed at the schoolsite and shall be immediately forwarded to the designee of the district superintendent.

(b) The principal or the designee of the district superintendent, as applicable, shall make all reasonable efforts to investigate any problem within his or her authority. The principal or designee of the district superintendent shall remedy a valid complaint within a reasonable time period but not to exceed 30 working days from the date the complaint was received. The principal or designee of the district superintendent shall report to the complainant the resolution of the complaint within 45 working days of the initial filing. If the principal makes this report, the principal shall also report the same information in the same timeframe to the designee of the district superintendent.

(c) A complainant not satisfied with the resolution of the principal or the designee of the district superintendent has the right to describe the complaint to the governing board of the school district at a regularly scheduled hearing of the governing board. As to complaints involving a condition of a facility that poses an emergency or urgent threat, as defined in paragraph (1) of subdivision (c) of Section 17592.72, a complainant who is not satisfied with the resolution proffered by the principal or the designee of the district superintendent has the right to file an appeal to the Superintendent, who shall provide a written report to the state board describing the basis for the complaint and, as appropriate, a proposed remedy for the issue described in the complaint.

(d) A school district shall report summarized data on the nature and resolution of all complaints on a quarterly basis to the county superintendent of schools and the governing board of the school district. The summaries shall be publicly reported on a quarterly basis at a regularly scheduled meeting of the governing board of the school district. The report shall include the number of complaints by general subject area with the number of resolved and unresolved complaints. The complaints and written responses shall be available as public records.

(e) The procedure required pursuant to this section is intended to address all of the following:

(1) A complaint related to instructional materials as follows:

(A) A pupil, including an English learner, does not have standards-aligned textbooks or instructional materials or state-adopted

or district-adopted textbooks or other required instructional material to use in class.

(B) A pupil does not have access to instructional materials to use at home or after school.

(C) Textbooks or instructional materials are in poor or unusable condition, have missing pages, or are unreadable due to damage.

(2) A complaint related to teacher vacancy or misassignment as follows:

(A) A semester begins and a teacher vacancy exists.

(B) A teacher who lacks credentials or training to teach English learners is assigned to teach a class with more than 20-percent English learner pupils in the class. This subparagraph does not relieve a school district from complying with state or federal law regarding teachers of English learners.

(C) A teacher is assigned to teach a class for which the teacher lacks subject matter competency.

(3) A complaint related to the condition of facilities that pose an emergency or urgent threat to the health or safety of pupils or staff as defined in paragraph (1) of subdivision (c) of Section 17592.72 and any other emergency conditions the school district determines appropriate and the requirements established pursuant to subdivision (a) of Section 35292.5.

(4) A complaint related to the provision of intensive instruction and services pursuant to paragraphs (4) and (5) of subdivision (d) of Section 37254.

(f) In order to identify appropriate subjects of complaint, a notice shall be posted in each classroom in each school in the school district notifying parents, guardians, pupils, and teachers of the following:

(1) There should be sufficient textbooks and instructional materials. For there to be sufficient textbooks and instructional materials each pupil, including English learners, must have a textbook or instructional materials, or both, to use in class and to take home.

(2) School facilities must be clean, safe, and maintained in good repair.

(3) There should be no teacher vacancies or misassignments as defined in paragraphs (2) and (3) of subdivision (h).

(4) Pupils who have not passed the high school exit examination by the end of grade 12 are entitled to receive intensive instruction and services for up to two consecutive academic years after completion of grade 12 or until the pupil has passed both parts of the high school exit examination, whichever comes first, pursuant to paragraphs (4) and (5) of subdivision (d) of Section 37254. The information in this paragraph, which is to be included in the notice required pursuant to this subdivision,

shall only be included in notices posted in classrooms in schools with grades 10 to 12, inclusive.

(5) The location at which to obtain a form to file a complaint in case of a shortage. Posting a notice downloadable from the Internet Web site of the department shall satisfy this requirement.

(g) A local educational agency shall establish local policies and procedures, post notices, and implement this section on or before January 1, 2005.

(h) For purposes of this section, the following definitions apply:

(1) "Good repair" has the same meaning as specified in subdivision (d) of Section 17002.

(2) "Misassignment" means the placement of a certificated employee in a teaching or services position for which the employee does not hold a legally recognized certificate or credential or the placement of a certificated employee in a teaching or services position that the employee is not otherwise authorized by statute to hold.

(3) "Teacher vacancy" means a position to which a single designated certificated employee has not been assigned at the beginning of the year for an entire year or, if the position is for a one-semester course, a position to which a single designated certificated employee has not been assigned at the beginning of a semester for an entire semester.

SEC. 3. Section 37254 of the Education Code is amended to read:

37254. (a) For purposes of this section, "eligible pupil" means a pupil who has not met the California High School Exit Examination requirement for high school graduation pursuant to Chapter 8 (commencing with Section 60850) of Part 33, and who has failed one or both parts of that examination by the end of grade 12.

(b) (1) From the funds appropriated for purposes of this section in the annual Budget Act or other statute, the Superintendent shall determine a per pupil rate of funding by dividing the total amount of funds appropriated for purposes of this section by the number of eligible pupils in grade 12 as reported by school districts in accordance with paragraph (7) of subdivision (d). The Superintendent shall then apportion to each school district an amount equal to the per pupil rate determined pursuant to this paragraph multiplied by the number of eligible grade 12 pupils reported pursuant to paragraph (7) of subdivision (d).

(2) If funds appropriated for purposes of paragraph (1) are not exhausted after the apportionment pursuant to paragraph (1) is made, the Superintendent shall determine a per pupil rate of funding for eligible pupils in grade 11 by dividing the total amount of funds appropriated for purposes of this section remaining after the apportionment pursuant to paragraph (1) has been made by dividing the total number of eligible pupils in grade 11 reported by school districts in accordance with

paragraph (7) of subdivision (d). The Superintendent shall apportion to each school district an amount equal to the per pupil rate determined pursuant to this paragraph multiplied by the number of eligible grade 11 pupils reported pursuant to paragraph (7) of subdivision (d).

(3) The maximum per pupil rate of funding shall not exceed five hundred dollars ($500) and shall be increased annually by the percentage determined in paragraph (2) of subdivision (b) of Section 42238.1

(c) (1) The funds described in subdivision (b) shall be used to provide intensive instruction and services designed to help eligible pupils pass the California High School Exit Examination.

(2) Intensive instruction and services may be provided during the regular schoolday provided that they do not supplant the instruction of the pupil in the core curriculum areas as defined in paragraph (5) of subdivision (a) of Section 60603, or physical education instruction. Eligible pupils may receive intensive instruction and services on Saturdays, evenings, or at a time and location deemed appropriate by the school district in order to meet the needs of these pupils.

(3) Intensive instruction and services may include, but are not limited to, all of the following:

(A) Individual or small group instruction.

(B) The hiring of additional teachers.

(C) Purchasing, scoring, and reviewing diagnostic assessments.

(D) Counseling.

(E) Designing instruction to meet specific needs of eligible pupils.

(F) Appropriate teacher training to meet the needs of eligible pupils.

(G) Instruction in English language arts or mathematics, or both, that eligible pupils need to pass those parts of the high school exit examination not yet passed. A school district may employ different intensive instruction and services strategies more aligned to the needs and circumstances of pupils who have not passed one or both parts of the high school exit examination by the end of grade 12 as compared to grade 12 pupils with similar needs in a comprehensive high school of the district.

(H) The provision of instruction and services by a public or nonpublic entity, as determined by the local educational agency.

(d) As a condition of receiving funds pursuant to subdivision (c), the school district shall accomplish all of the following:

(1) Ensure that each eligible pupil receives an appropriate diagnostic assessment to identify that pupil's areas of need.

(2) Ensure that each pupil receives intensive instruction and services based on the results of the diagnostic assessment, and prior results on the high school exit examination.

(3) Ensure that all pupils who have not passed one or both parts of the high school exit examination by the end of grade 12 are notified in writing at the last known address before the end of each school term of the availability of the services in sufficient time to register for or avail themselves of those services each term for two consecutive academic years thereafter and are notified of the right of a pupil to file a complaint regarding those services as set forth in Section 35186. In addition to notifying the pupil, or his or her parent or legal guardian if the pupil is under the age of 18, in writing, the notice shall be posted in the school office and district office and on the Internet Web site of the school district, if applicable. The notice shall comply with the translation requirements of Section 48985.

(4) Ensure that all pupils who have not passed one or both parts of the high school exit examination by the end of grade 12 have the opportunity to receive intensive instruction and services as needed based on the results of the diagnostic assessment and prior results on the high school exit examination, as specified in paragraph (2), for up to two consecutive academic years after completion of grade 12 or until the pupil has passed both parts of the high school exit examination, whichever comes first. A school district shall employ strategies for intensive instruction and services that are most likely to result in these pupils passing the parts of the high school exit examination that they have not yet passed.

(5) Ensure that all English learners who have not passed one or both parts of the high school exit examination by the end of grade 12 have the opportunity to receive intensive instruction and services provided under paragraph (3) of subdivision (c) that also shall include services to improve English proficiency as needed based on the results of the diagnostic assessment and prior results on the high school exit examination, as specified in paragraph (2), to pass those parts of the high school exit examination not yet passed, for up to two consecutive academic years after completion of grade 12 or until the pupil has passed both parts of the high school exit examination, whichever comes first. A school district shall employ strategies for intensive instruction and services that are most likely to result in these pupils passing the parts of the high school exit examination that they have not yet passed.

(6) Demonstrate that funds will be used to supplement and not supplant existing services.

(7) Provide to the Superintendent, in a manner and by a date certain determined by the Superintendent, the number of eligible pupils at each high school in the school district.

(8) Submit an annual report to the Superintendent and the appropriate county superintendent of schools in a manner determined by the

Superintendent that describes the manner and frequency in which eligible pupils were notified of the intensive instruction and services provided, the number of pupils served for each type of service provided, and the number of pupils in the school district who successfully pass the high school exit examination by each type of service provided.

SEC. 4. Section 52378 of the Education Code is amended to read:

52378. The Middle and High School Supplemental Counseling Program is hereby established for the purpose of providing additional counseling services to pupils in grades 7 to 12, inclusive. As a condition of receiving funds, the governing board of each school district maintaining any of grades 7 to 12, inclusive, shall do all of the following:

(a) The program shall be adopted at a public meeting of the governing board and shall include all of the following:

(1) A provision for individualized review of the pupil's academic and deportment records.

(2) A provision for a counselor to meet with each pupil and if practicable, the parents or legal guardian of the pupil, to explain the academic and deportment records of the pupil, his or her educational options, the coursework and academic progress needed for satisfactory completion of middle or high school, passage of the high school exit examination, the availability of intensive instruction and services as required pursuant to subdivision (c) of Section 37254, for up to two consecutive academic years after the completion of grade 12 or until the pupil has passed both parts of the high school exit examination, whichever comes first, for those pupils who have not passed one or both parts of the high school exit examination by the end of grade 12, and the availability of career technical education. The educational options explained at the meeting, if services are available, shall include college preparatory program and vocational programs, including regional occupational centers and programs and any other alternatives available to pupils within the district.

(b) In addition to the counseling services described in subdivision (a), school districts shall identify pupils who are at risk of not graduating with the rest of their class, are not earning credits at a rate that will enable them to pass the high school exit examination, or do not have sufficient training to allow them to fully engage in their chosen career, and shall do all of the following:

(1) Require each school within its jurisdiction that enrolls pupils in grades 10 and 12 to develop a list of coursework and experience necessary to assist each pupil in their respective grade that has not passed one or both parts of the high school exit examination and to successfully transition to postsecondary education or employment.

(2) Require each school within its jurisdiction that enrolls pupils in grade 7 to develop a list of coursework and experience necessary to assist each pupil in grade 7 who is deemed to be at the far below basic level in English language arts or mathematics pursuant to California Standards Tests administered to pupils in grade 6 to successfully transition to high school and meet all graduation requirements, including passing the high school exit examination.

(3) A copy of the list of coursework and experience necessary shall be provided to the pupil and his or her parent or legal guardian. The school district shall ensure that the list of coursework and experience is part of the cumulative records of the pupil.

(4) Inform the pupil who has not passed one or both parts of the high school exit examination of the option of intensive instruction and services.

(c) (1) In addition to the items identified in subdivision (b), the list of coursework and experience for a pupil enrolled in grade 12 shall include options for continuing his or her education if he or she fails to meet graduation requirements. These options shall include, but not be limited to, all of the following:

(A) Enrolling in an adult education program.

(B) Enrolling in a community college.

(C) Continuing enrollment in the pupil's school district.

(D) Continuing to receive intensive instruction and services for up to two consecutive academic years after completion of grade 12 or until the pupil has passed both parts of the high school exit examination, whichever comes first.

(2) A copy of the list of coursework and experience necessary shall be provided to the pupil and his or her parent or legal guardian. The school district shall ensure that the list of coursework and experience is part of the cumulative records of the pupil.

(d) As a condition of receipt of funds pursuant to this article, a school district shall require each school within its jurisdiction to offer and schedule an individual conference with each pupil, identified in paragraphs (1) and (2) of subdivision (b), and his or her parent or legal guardian, and a school counselor. The individual conference shall be scheduled, to the extent feasible, according to the following requirements:

(1) For a pupil enrolled in grade 7, the conference shall occur before January of that school year in which the pupil is enrolled in grade 7.

(2) For a pupil enrolled in grade 10, the conference shall occur between the spring of that school year in which the pupil is enrolled in grade 10 and the fall of the following school year in which the pupil would be enrolled in grade 11. For the 2006–07 school year, the conference shall occur on or before December 31, 2006.

(3) For a pupil enrolled in grade 12, the conference shall occur after November of that school year in which the pupil is enrolled in grade 12, but before March of the same school year.

(e) During the individual conference described in subdivision (d), the school counselor shall apprise the pupil identified in paragraphs (1) and (2) of subdivision (b), and his or her parent or legal guardian of the following:

(1) Consequences of not passing the high school exit examination.

(2) Programs, courses, and career technical education options available for pupils needed for satisfactory completion of middle or high school.

(3) Cumulative records and transcripts of the pupil.

(4) Performance on standardized and diagnostic assessments of the pupil.

(5) Remediation strategies, high school courses, and alternative education options available to the pupil, including, but not limited to, informing pupils of the option to receive intensive instruction and services for up to two consecutive academic years after completion of grade 12 or until the pupil has passed both parts of the high school exit examination, whichever comes first.

(6) Information on postsecondary education and training.

(7) The pupil's score on the English language arts or mathematics portion of the California Standards Test administered in grade 6, as applicable.

SEC. 4.5. Section 52378 of the Education Code is amended to read:

52378. The Middle and High School Supplemental Counseling Program is hereby established for the purpose of providing additional counseling services to pupils in grades 7 to 12, inclusive. As a condition of receiving funds, the governing board of each school district maintaining any of grades 7 to 12, inclusive, shall do all of the following:

(a) The program shall be adopted at a public meeting of the governing board of a school district and shall include all of the following:

(1) A provision for individualized review of the academic and deportment records of the pupil.

(2) A provision for individualized review of the career goals of, and the available academic and career technical education opportunities and community and workplace experiences available to, the pupil that may support the pursuit of the goals of the pupil.

(3) A provision for a counselor to meet with each pupil and if practicable, the parents or legal guardian of the pupil to explain the academic and deportment records of the pupil, his or her educational options, the coursework and academic progress needed for satisfactory completion of middle or high school, passage of the high school exit examination, and eligibility for admission to a four-year institution of

postsecondary education, including the University of California and the California State University, as well as the availability of intensive instruction and services as required pursuant to subdivision (c) of Section 37254, for up to two consecutive academic years after the completion of grade 12 or until the pupil has passed both parts of the high school exit examination, whichever comes first, for those pupils who have not passed one or both parts of the high school exit examination by the end of grade 12, and the availability of career technical education. The educational options explained at the meeting, if services are available, shall include the college preparatory program and career technical education programs, including regional occupational centers and programs and any other alternatives available to pupils within the school district.

(b) In addition to the counseling services described in subdivision (a), school districts shall identify pupils who are at risk of not graduating with the rest of their class, are not earning credits at a rate that will enable them to pass the high school exit examination, or do not have sufficient training to allow them to fully engage in their chosen career, and shall do all of the following:

(1) Require each school within its jurisdiction that enrolls pupils in grades 10 and 12 to develop a list of coursework and experience necessary to assist each pupil in his or her respective grade that has not passed one or both parts of the high school exit examination or has not satisfied, or is not on track to satisfy, the curricular requirements for admission to the University of California and the California State University, and to successfully transition to postsecondary education or employment.

(2) Require each school within its jurisdiction that enrolls pupils in grade 7 to develop a list of coursework and experience necessary to assist each pupil in grade 7 who is deemed to be at the far below basic level in English language arts or mathematics pursuant to California Standards Tests administered to pupils in grade 6 to successfully transition to high school and meet all graduation requirements, including passing the high school exit examination.

(3) Require each school within its jurisdiction that enrolls pupils in grade 7 to develop a list of coursework and experience necessary to assist each pupil in grade 7 to begin to satisfy the curricular requirements for admission to the University of California and the California State University.

(4) Require each school within its jurisdiction to provide a copy of the lists developed pursuant to paragraphs (2) and (3) to the pupil and his or her parent or legal guardian. The school district shall ensure that

the list of coursework and experience is part of the cumulative records of the pupil.

(5) Inform the pupil who has not passed one or both parts of the high school exit examination of the option of intensive instruction and services.

(c) (1) In addition to the items identified in subdivision (b), the list of coursework and experience for a pupil enrolled in grade 12 shall include options for continuing his or her education if he or she fails to meet graduation requirements. These options shall include, but not be limited to, all of the following:

(A) Enrolling in an adult education program.

(B) Enrolling in a community college.

(C) Continuing enrollment in the school district of the pupil.

(D) Continuing to receive intensive instruction and services for up to two consecutive academic years after completion of grade 12 or until the pupil has passed both parts of the high school exit examination, whichever comes first.

(2) A copy of the list of coursework and experience necessary shall be provided to the pupil and his or her parent or legal guardian. The school district shall ensure that the list of coursework and experience is part of the cumulative records of the pupil.

(d) As a condition of receipt of funds pursuant to this article, a school district shall require each school within its jurisdiction to offer and schedule an individual conference with each pupil, identified in paragraphs (1) and (2) of subdivision (b), and his or her parent or legal guardian, and a school counselor. The individual conference shall be scheduled, to the extent feasible, according to the following requirements:

(1) For a pupil enrolled in grade 7, the conference shall occur before January of that school year in which the pupil is enrolled in grade 7.

(2) For a pupil enrolled in grade 10, the conference shall occur between the spring of that school year in which the pupil is enrolled in grade 10 and the fall of the following school year in which the pupil would be enrolled in grade 11. For a school operating on a multitrack, year-round calendar, the conference for a pupil enrolled in grade 10 shall occur in the timeframe that is equivalent to that specified timeframe for a school operating on a traditional calendar.

(3) For a pupil enrolled in grade 12, the conference shall occur after November of that school year in which the pupil is enrolled in grade 12, but before March of the same school year. For a school operating on a multitrack, year-round calendar, the conference for a pupil enrolled in grade 12 shall occur in the timeframe that is equivalent to that specified timeframe for a school operating on a traditional calendar.

(e) During the individual conference described in subdivision (d), the school counselor shall apprise the pupil identified in paragraphs (1) and (2) of subdivision (b), and his or her parent or legal guardian of the following:

(1) Consequences of not passing the high school exit examination.

(2) Programs, courses, and career technical education options available for pupils needed for satisfactory completion of middle or high school.

(3) Cumulative records and transcripts of the pupil.

(4) Performance on standardized and diagnostic assessments of the pupil.

(5) Remediation strategies, high school courses, and alternative education options available to the pupil, including, but not limited to, informing pupils of the option to receive intensive instruction and services for up to two consecutive academic years after completion of grade 12 or until the pupil has passed both parts of the high school exit examination, whichever comes first.

(6) Information on postsecondary education and training.

(7) The score of the pupil on the English language arts or mathematics portion of the California Standards Test administered in grade 6, as applicable.

(8) Eligibility requirements, including coursework and test requirements, and the progress of the pupil toward satisfaction of those requirements for admission to four-year institutions of postsecondary education, including, at least, the University of California and the California State University.

(9) The availability of financial aid for postsecondary education.

SEC. 5. Section 52380 of the Education Code is amended to read:

52380. As a condition of receipt of funds pursuant to this chapter, a school district shall submit an annual report to the Superintendent and the appropriate county superintendent of schools in a manner determined by the Superintendent that describes the number of pupils served, the number of school counselors involved in conferences, the number and percentage of pupils who participated in conferences and who successfully pass the high school exit examination, and the number and percentage of pupils who participated in conferences and who fail to pass one or both sections of the exit examination, and a summary of the most prevalent results for pupils based on the graduation plans developed pursuant to this chapter. The report also shall contain an assurance that the school district has complied with subdivision (e) of Section 52378.

SEC. 6. Section 4.5 of this bill incorporates amendments to Section 52378 of the Education Code proposed by both this bill and SB 405. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2008, but this bill becomes operative

first, (2) each bill amends Section 52378 of the Education Code, and (3) this bill is enacted after SB 405, in which case Section 52378 of the Education Code, as amended by Section 4 of this bill, shall remain operative only until the operative date of SB 405, at which time Section 4.5 of this bill shall become operative.

SEC. 7. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

SEC. 8. (a) Of the funds appropriated in Item 6110-266-0001 of Section 2.00 of the Budget Act of 2007, up to one million five hundred thousand dollars ($1,500,000) may be used to provide funding to county offices of education for the oversight activities required pursuant to subparagraph (E) of paragraph (2) of subdivision (c) of Section 1240 of the Education Code. The statewide organization that represents county superintendents of schools shall recommend a methodology for allocation of these funds to the Superintendent of Public Instruction by October 1, 2007. The Superintendent of Public Instruction may modify the methodology, subject to approval by the Department of Finance and 30-day notification to the appropriate policy and fiscal committees of the Legislature. Funds shall not be allocated prior to the expiration of the 30-day notification period.

(b) It is the intent of the Legislature that the allocation method specified in subdivision (a) be applied for the 2007–08 fiscal year and the determination of allocations for the 2008–09 fiscal year and each fiscal year thereafter be subject to the normal budget process.

SEC. 9. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide timely assistance to the pupils of the classes of 2006 and 2007 who have not passed one or both sections of the high school exit examination by the end of grade 12, it is necessary that this bill take effect immediately.

CHAPTER 527

An act to amend Section 48980 of, and to add Section 51229 to, the Education Code, relating to high school curriculum.

[Approved by Governor October 12, 2007. Filed with
Secretary of State October 12, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 48980 of the Education Code is amended to read:

48980. (a) At the beginning of the first semester or quarter of the regular school term, the governing board of each school district shall notify the parent or guardian of a minor pupil regarding the right or responsibility of the parent or guardian under Sections 35291, 46014, 48205, 48207, 48208, 49403, 49423, 49451, 49472, and 51938 and Chapter 2.3 (commencing with Section 32255) of Part 19.

(b) The notification also shall advise the parent or guardian of the availability of individualized instruction as prescribed by Section 48206.3, and of the program prescribed by Article 9 (commencing with Section 49510) of Chapter 9.

(c) The notification also shall advise the parents and guardians of all pupils attending a school within the school district of the schedule of minimum days and pupil-free staff development days, and if any minimum or pupil-free staff development days are scheduled thereafter, the governing board of the district shall notify parents and guardians of the affected pupils as early as possible, but not later than one month before the scheduled minimum or pupil-free day.

(d) The notification also may advise the parent or guardian of the importance of investing for future college or university education for their children and of considering appropriate investment options including, but not limited to, United States Savings Bonds.

(e) The notification shall advise the parent or guardian of the pupil that each pupil completing grade 12 is required to successfully pass the high school exit examination administered pursuant to Chapter 9 (commencing with Section 60850) of Part 33. The notification shall include, at a minimum, the date of the examination, the requirements for passing the examination, and shall inform the parents and guardians regarding the consequences of not passing the examination and shall inform parents and guardians that passing the examination is a condition of graduation.

(f) Each school district that elects to provide a fingerprinting program pursuant to Article 10 (commencing with Section 32390) of Chapter 3 of Part 19 shall inform parents or guardians of the program as specified in Section 32390.

(g) The notification shall also include a copy of the written policy of the school district on sexual harassment established pursuant to Section 231.5, as it relates to pupils.

(h) The notification shall advise the parent or guardian of all existing statutory attendance options and local attendance options available in the school district. This notification component shall include all options for meeting residency requirements for school attendance, programmatic options offered within the local attendance areas, and any special programmatic options available on both an interdistrict and intradistrict basis. This notification component also shall include a description of all options, a description of the procedure for application for alternative attendance areas or programs, an application form from the district for requesting a change of attendance, and a description of the appeals process available, if any, for a parent or guardian denied a change of attendance. The notification component also shall include an explanation of the existing statutory attendance options including, but not limited to, those available under Section 35160.5, Chapter 5 (commencing with Section 46600) of Part 26, and subdivision (b) of Section 48204. The department shall produce this portion of the notification and shall distribute it to all school districts.

(i) It is the intent of the Legislature that the governing board of each school district annually review the enrollment options available to the pupils within their districts and that the districts strive to make available enrollment options that meet the diverse needs, potential, and interests of the pupils of California.

(j) The notification shall advise the parent or guardian that a pupil shall not have his or her grade reduced or lose academic credit for any absence or absences excused pursuant to Section 48205 if missed assignments and tests that can reasonably be provided are satisfactorily completed within a reasonable period of time, and shall include the full text of Section 48205.

(k) The notification shall advise the parent or guardian of the availability of state funds to cover the costs of advanced placement examination fees pursuant to Section 52244.

(*l*) The notification to the parent or guardian of a minor pupil enrolled in any of grades 9 to 12, inclusive, also shall include the information required pursuant to Section 51229.

SEC. 2. Section 51229 is added to the Education Code, to read:

51229. (a) Each school year, as part of the annual notification required pursuant to Section 48980, a school district offering any of grades 9 to 12, inclusive, shall provide the parent or guardian of each minor pupil enrolled in any of those grades in the district with written

notification that, to the extent possible, shall not exceed one page in length and that includes all of the following:

(1) A brief explanation of the college admission requirements.

(2) A list of the current University of California and California State University Web sites that help pupils and their families learn about college admission requirements and that list high school courses that have been certified by the University of California as satisfying the requirements for admission to the University of California and the California State University.

(3) A brief description of what career technical education is, as defined by the department.

(4) The Internet address for the portion of the Web site of the department where pupils can learn more about career technical education.

(5) Information about how pupils may meet with school counselors to help them choose courses at their school that will meet college admission requirements or enroll in career technical education courses, or both.

(b) For purposes of this section, "college admission requirements" means the list of courses that satisfy the subject requirements for admission to the California State University and the University of California.

SEC. 3. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

CHAPTER 528

An act to add and repeal Section 45277.5 of the Education Code, relating to school employees.

[Approved by Governor October 12, 2007. Filed with Secretary of State October 12, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 45277.5 is added to the Education Code, to read:

45277.5. Notwithstanding Section 45277, in a school district with a pupil population of over 400,000 the following shall apply:

(a) An appointment may be made from other than the first three ranks of eligible applicants on the eligibility list if one or more of the following are required for successful job performance of a position to be filled:

(1) The ability to speak, read, or write a language in addition to English.

(2) A valid driver's license.

(3) Specialized licenses, certifications, knowledge, or ability, as determined by the school district personnel commission, that cannot reasonably be acquired during the probationary period.

(4) A specific gender if it is a bona fide occupational qualification.

(b) The recruitment bulletin announcing the examination shall indicate the special requirements that may be necessary for filling one or more of the positions in the classification. If a position is to be filled using the authority of this section, the appointment shall be made from among the highest three ranks of eligible candidates on the appropriate eligibility list who meet the special requirements of the position and who are ready and willing to accept the position.

(c) If there are insufficient applicants who meet the special requirements, an employee who meets the special requirements may receive provisional appointments that may accumulate to a total of 90 working days. Successive provisional appointments of 90 working days or less each may be made in the absence of an appropriate eligibility list containing applicants who meet the special requirements if the personnel commission finds that the requirements of subdivisions (a) and (b) of Section 45288 have been met. These appointments may continue for the period of the provisional appointment, but may not be additionally extended if certification can later be made from an appropriate eligibility list.

(d) This section applies only to the following classifications:

(1) Administrative analyst.

(2) Administrative assistant.

(3) Assistant contract administration analyst.

(4) Assistant realty agent.

(5) Contracts administration analyst.

(6) Educational research analyst.

(7) Financial analyst.

(8) Grants specialist.

(9) Health care advocate.

(10) Human resources specialist III.

(11) Insurance representative II.

(12) Insurance representative III.

(13) Occupational health nurse.

(14) Parent community facilitator.

(15) Senior internal auditor.
(16) Web developer.
(e) A school district that makes an appointment pursuant to this section shall study the effectiveness of this selection method, vacancy rates for each classification, and the length of time to hire for each classification, and submit a report on the study to the affected labor unions.
(f) This section shall remain in effect only until January 1, 2012, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2012, deletes or extends that date.

CHAPTER 529

An act to add Section 52499.66 to the Education Code, relating to career technical education.

[Approved by Governor October 12, 2007. Filed with Secretary of State October 12, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 52499.66 is added to the Education Code, to read:

52499.66. (a) The department shall be responsible for the creation, as set forth in subdivision (b), of comprehensive, easy to access, user-friendly Web site pages with information about opportunities and programs available in the state on career technical education in elementary and secondary schools.

(b) (1) By July 1, 2008, the department shall select, on a competitive basis, an elementary or secondary school career technical education program for pupils to develop the Web site pages as a part of a career technical education course of study related to technology and Web site development. The program may be part of a school district or regional occupational center or program course of study.

(2) The department shall establish criteria and parameters for the content of the Web site pages and shall provide guidance to the selected career technical education design process. The department periodically shall review the work of the design process to ensure that all the criteria and legal considerations are being met. By July 1, 2009, the selected program shall complete the Web site pages development project.

(3) By January 1, 2010, the Web site pages on career technical education required to be created pursuant to this section shall be

incorporated into the department's Web site as an integral part of the existing department Web site.

(4) The department shall establish criteria for the posting of information and links on the Web site and shall provide ongoing Web site administration and maintenance in keeping with department policies. The department Web site may provide links to local and state public agencies, school districts, regional occupational centers and programs, adult education programs, and related career technical education programs in order for pupils, parents, teachers, and the public to easily access information.

(c) The career technical education Web site pages created pursuant to this section should provide pupils, parents, guardians, teachers, counselors, administrators, business and industry, and professional and trades representatives with information regarding all of the following:

(1) Career technical education programs, possible course offerings, and graduation requirements.

(2) High school career technical education skill certificates and related postsecondary education, skill certificates, and apprenticeship requirements and admissions information.

(3) Best practices in elementary and secondary school career technical education programs and examples of successful curriculum and programs, including career technical programs in high schools and regional occupational centers and programs.

(4) State and federal workforce statistical data and how-to-use data tips for educators and advisory committees on career technical education.

(5) Access to information regarding business and industry programs that may offer pupils and teachers support and internships or summer work experience.

(6) Professional and trades organizations that may be available to offer pupils and teachers support and internships or summer work experience.

(7) Links to related resources.

(8) Career technical education model curriculum standards to assist local educational agencies in the development of sequences of courses, skills certificates, and assessment tools.

(9) Funding sources and ongoing state and federal program guidelines, regulations, and funding opportunities.

(d) The career technical education Web site pages created pursuant to this section shall allow for redirection to school district and public career technical education program Web sites for more specific information about the availability of elementary and secondary school

programs for pupils and teachers and to community college and other postsecondary opportunities.

CHAPTER 530

An act to amend Sections 33126, 33126.1, 35256, and 35258 of the Education Code, relating to school accountability.

[Approved by Governor October 12, 2007. Filed with Secretary of State October 12, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 33126 of the Education Code is amended to read:

33126. (a) The school accountability report card shall provide data by which a parent can make meaningful comparisons between public schools that will enable him or her to make informed decisions on the school in which to enroll his or her children.

(b) The school accountability report card shall include, but is not limited to, assessment of the following school conditions:

(1) (A) Pupil achievement by grade level, as measured by the standardized testing and reporting programs pursuant to Article 4 (commencing with Section 60640) of Chapter 5 of Part 33.

(B) After the state develops a statewide assessment system pursuant to Chapter 5 (commencing with Section 60600) and Chapter 6 (commencing with Section 60800) of Part 33, pupil achievement by grade level, as measured by the results of the statewide assessment.

(2) Progress toward reducing dropout rates, including the one-year dropout rate listed in the California Basic Educational Data System or a successor data system for the schoolsite over the most recent three-year period, and the graduation rate, as defined by the state board, over the most recent three-year period when available pursuant to Section 52052.

(3) Estimated expenditures per pupil and types of services funded. The assessment of estimated expenditures per pupil shall reflect the actual salaries of personnel assigned to the schoolsite. The assessment of estimated expenditures per pupil shall be reported in total, shall be reported in subtotal by restricted and by unrestricted source, and shall include a reporting of the average of actual salaries paid to certificated instructional personnel at that schoolsite.

(4) Progress toward reducing class sizes and teaching loads, including the distribution of class sizes at the schoolsite by grade level and the

average class size, using the California Basic Educational Data System or a successor data system information for the most recent three-year period.

(5) The total number of the school's fully credentialed teachers, the number of teachers relying upon emergency credentials, the number of teachers working without credentials, any assignment of teachers outside their subject areas of competence, misassignments, including misassignments of teachers of English learners, and the number of vacant teacher positions for the most recent three-year period.

(A) For purposes of this paragraph, "vacant teacher position" means a position to which a single-designated certificated employee has not been assigned at the beginning of the year for an entire year or, if the position is for a one-semester course, a position of which a single-designated certificated employee has not been assigned at the beginning of a semester for an entire semester.

(B) For purposes of this paragraph, "misassignment" means the placement of a certificated employee in a teaching or services position for which the employee does not hold a legally recognized certificate or credential or the placement of a certificated employee in a teaching or services position that the employee is not otherwise authorized by statute to hold.

(6) (A) Quality and currency of textbooks and other instructional materials, including whether textbooks and other materials meet state standards and are adopted by the state board for kindergarten and grades 1 to 8, inclusive, and adopted by the governing boards of school districts for grades 9 to 12, inclusive, and the ratio of textbooks per pupil and the year the textbooks were adopted.

(B) The availability of sufficient textbooks and other instructional materials, as determined pursuant to Section 60119, for each pupil, including English learners, in each of the areas enumerated in clauses (i) to (iv), inclusive. If the governing board determines, pursuant to Section 60119 that there are insufficient textbooks or instructional materials, or both, it shall include information for each school in which an insufficiency exists, identifying the percentage of pupils who lack sufficient standards-aligned textbooks or instructional materials in each subject area. The subject areas to be included are all of the following:

(i) The core curriculum areas of reading/language arts, mathematics, science, and history/social science.

(ii) Foreign language and health.

(iii) Science laboratory equipment for grades 9 to 12, inclusive, as appropriate.

(iv) Visual and performing arts.

(7) The availability of qualified personnel to provide counseling and other pupil support services, including the ratio of academic counselors per pupil.

(8) Safety, cleanliness, and adequacy of school facilities, including any needed maintenance to ensure good repair as specified in Section 17014, Section 17032.5, subdivision (a) of Section 17070.75, and subdivision (b) of Section 17089.

(9) The annual number of schooldays dedicated to staff development for the most recent three-year period.

(10) Suspension and expulsion rates for the most recent three-year period.

(11) For secondary schools, the percentage of graduates who have passed course requirements for entrance to the University of California and the California State University, including the course requirements for high school graduation pursuant to Section 51225.3, and the percentage of pupils enrolled in those courses, as reported by the California Basic Educational Data System or any successor data system.

(12) The number of advanced placement courses offered, by subject.

(13) The Academic Performance Index, including the disaggregation of subgroups as set forth in Section 52052 and the decile rankings and a comparison of schools.

(14) When available, the percentage of pupils, including the disaggregation of subgroups, as set forth in Section 52052, completing grade 12 who successfully complete the high school exit examination, as set forth in Sections 60850 and 60851, as compared to the percentage of pupils in the district and statewide completing grade 12 who successfully complete the examination.

(15) Contact information pertaining to organized opportunities for parental involvement.

(16) Career technical education data measures, including all of the following:

(A) A list of programs offered by the school district in which pupils at the school may participate and that are aligned to the model curriculum standards adopted pursuant to Section 51226, and program sequences offered by the school district. The list should identify courses conducted by a regional occupational center or program, and those conducted directly by the school district.

(B) A listing of the primary representative of the career technical advisory committee of the school district and the industries represented.

(C) The number of pupils participating in career technical education.

(D) The percentage of pupils that complete a career technical education program and earn a high school diploma.

(E) The percentage of career technical education courses that are sequenced or articulated between a school and institutions of postsecondary education.

(c) If the Commission on State Mandates finds a school district is eligible for a reimbursement of costs incurred complying with this section, the school district shall be reimbursed only if the information provided in the school accountability report card is accurate, as determined by the annual audit performed pursuant to Section 41020. If the information is determined to be inaccurate, the school district remains eligible for reimbursement if the information is corrected by May 15.

(d) It is the intent of the Legislature that schools make a concerted effort to notify parents of the purpose of the school accountability report cards, as described in this section, and ensure that all parents receive a copy of the report card; to ensure that the report cards are easy to read and understandable by parents; to ensure that local educational agencies with access to the Internet make available current copies of the report cards through the Internet; and to ensure that administrators and teachers are available to answer any questions regarding the report cards.

SEC. 2. Section 33126.1 of the Education Code is amended to read:

33126.1. (a) The department shall develop and recommend for adoption by the state board a standardized template intended to simplify the process for completing the school accountability report card and make the school accountability report card more meaningful to the public.

(b) The standardized template shall include all of the following:

(1) Fields for the insertion of data and information by the department and by local educational agencies.

(2) A field to report the determination of the sufficiency of textbooks and instructional materials, pursuant to Section 60119.

(3) A summary statement of the condition of school facilities, as required by Section 17014, Section 17032.5, subdivision (a) of Section 17070.75, and subdivision (b) of Section 17089. The department shall provide examples of summary statements of the condition of school facilities that are acceptable and those that are unacceptable.

(4) A description of data available on the DataQuest Internet Web site of the department, including the Uniform Resource Locator for that Internet Web site.

(5) A description of admission requirements for California's public universities, including the Uniform Resource Locator for the University of California Internet Web site providing information about the courses offered by each school that are approved as meeting those requirements.

(6) A statement concerning the availability of Internet access at public libraries and other locations that are publicly accessible.

(c) When the template for a school is completed, it should enable parents and guardians to compare the manner in which local schools compare to other schools within that district as well as other schools in the state.

(d) In conjunction with the development of the standardized template, the department shall furnish standard definitions for school conditions included in the school accountability report card. The standard definitions shall comply with the following:

(1) Definitions shall be consistent with the definitions already in place or under the development at the state level pursuant to existing law.

(2) Definitions shall enable schools to furnish contextual or comparative information to assist the public in understanding the information in relation to the performance of other schools.

(3) Definitions shall specify the data for which the department will be responsible for providing and the data and information for which the local educational agencies will be responsible.

(e) By February 1, 2008, the department shall report to the Legislature and the Governor on remaining data elements in the school accountability report card and the feasibility of combining elements, linking to other reporting of data elements, and other possible alternatives for improving the usability and readability of the school accountability report card. The report shall include a survey of the conditions for which the department has valid and reliable data at the state, district, or school level. The report shall provide a timetable for the inclusion of conditions for which standard definitions or valid and reliable data do not yet exist through the department.

(f) The Superintendent shall recommend and the state board shall appoint 13 members to serve on a broad-based advisory committee of local administrators, educators, parents, and other knowledgeable parties to develop definitions for the school conditions for which standard definitions do not yet exist. The state board may designate outside experts in performance measurements in support of activities of the advisory board.

(g) The state board shall approve available definitions for inclusion in the template as well as a timetable for the further development of definitions and data collection procedures. Each year the state board shall adopt the template for the current year's school accountability report card. Definitions for all school conditions shall be included in the template.

(h) The department annually shall post the completed and viewable template on the Internet. The template shall be designed to allow schools or districts to download the template from the Internet. The template shall further be designed to allow local educational agencies, including

individual schools, to enter data into the school accountability report card electronically, individualize the report card, and further describe the data elements. The department shall establish model guidelines and safeguards that may be used by school districts with secured access only for those school officials authorized to make modifications.

(i) The department shall maintain current Internet links with the Internet Web sites of local educational agencies to provide parents and the public with easy access to the school accountability report cards maintained on the Internet. In order to ensure the currency of these Internet links, local educational agencies that provide access to school accountability report cards through the Internet shall furnish current Uniform Resource Locators (URLs) for their Internet Web sites to the department.

(j) A school or school district that chooses not to utilize the standardized template adopted pursuant to this section shall report the data for its school accountability report card in a manner that is consistent with the definitions adopted pursuant to subdivision (c).

(k) The department shall provide recommendations for changes to the California Basic Educational Data System, or a successor data system, and other data collection mechanisms to ensure that the information will be preserved and available in the future.

(*l*) The department shall monitor the compliance of local educational agencies with the requirements to prepare and to distribute school accountability report cards, including, but not limited to, the requirements contained in this section, subdivision (c) of Section 35256, and Section 35258.

SEC. 3. Section 35256 of the Education Code is amended to read:

35256. School Accountability Report Card

The governing board of each school district maintaining an elementary or secondary school shall develop and cause to be implemented for each school in the school district a School Accountability Report Card.

(a) The School Accountability Report Card shall include, but is not limited to, the conditions listed in Section 33126.

(b) Not less than triennially, the governing board of each school district shall compare the content of the School Accountability Report Card of the school district to the model School Accountability Report Card adopted by the state board. Variances among school districts shall be permitted where necessary to account for local needs.

(c) The governing board of each school district annually shall issue a School Accountability Report Card for each school in the school district, publicize those reports, and notify parents or guardians of pupils that a hard copy will be provided upon request. Commencing with the 2008–09 school year, each school district shall make hard copies of its

annually updated report card available, upon request, on or before February 1 of each year.

SEC. 4. Section 35258 of the Education Code is amended to read:

35258. (a) Each school district that is connected to the Internet shall make the information contained in the School Accountability Report Card developed pursuant to Section 35256 accessible on the Internet. The School Accountability Report Card information shall be updated annually. Commencing with the 2008–09 school year, each school district connected to the Internet shall make its annually updated report card available on the Internet on or before February 1 of each year.

(b) Commencing with the 2008–09 school year, each school district not connected to the Internet shall make hard copies of its annually updated School Accountability Report Card available, pursuant to subdivision (c) of Section 35256, on or before February 1 of each year.

SEC. 5. The Legislature finds and declares that the changes made to Sections 33126 and 35256 of the Education Code by Sections 1 and 3, respectively, of this act further the purposes of the Classroom Instructional Improvement and Accountability Act.

SEC. 6. It is the intent of the Legislature, in enacting this act, to improve the effectiveness of the annual school accountability report cards.

CHAPTER 531

An act to amend Section 25402 of the Public Resources Code, relating to water conservation.

[Approved by Governor October 12, 2007. Filed with Secretary of State October 12, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 25402 of the Public Resources Code is amended to read:

25402. The commission shall, after one or more public hearings, do all of the following, in order to reduce the wasteful, uneconomic, inefficient, or unnecessary consumption of energy:

(a) Prescribe, by regulation, lighting, insulation climate control system, and other building design and construction standards that increase the efficiency in the use of energy for new residential and new nonresidential buildings. The standards shall be cost effective, when taken in their entirety, and when amortized over the economic life of the structure

when compared with historic practice. The commission shall periodically update the standards and adopt any revision that, in its judgment, it deems necessary. Six months after the commission certifies an energy conservation manual pursuant to subdivision (c) of Section 25402.1, no city, county, city and county, or state agency shall issue a permit for any building unless the building satisfies the standards prescribed by the commission pursuant to this subdivision or subdivision (b) that are in effect on the date an application for a building permit is filed.

(b) Prescribe, by regulation, energy conservation design standards for new residential and new nonresidential buildings. The standards shall be performance standards and shall be promulgated in terms of energy consumption per gross square foot of floorspace, but may also include devices, systems, and techniques required to conserve energy. The standards shall be cost effective when taken in their entirety, and when amortized over the economic life of the structure when compared with historic practices. The commission shall periodically review the standards and adopt any revision that, in its judgment, it deems necessary. A building that satisfies the standards prescribed pursuant to this subdivision need not comply with the standards prescribed pursuant to subdivision (a). The commission shall comply with this subdivision before January 1, 1981.

(c) (1) Prescribe, by regulation, standards for minimum levels of operating efficiency, based on a reasonable use pattern, and may prescribe other cost-effective measures, including incentive programs, fleet averaging, energy and water consumption labeling not preempted by federal labeling law, and consumer education programs, to promote the use of energy- and water-efficient appliances whose use, as determined by the commission, requires a significant amount of energy or water on a statewide basis. The minimum levels of operating efficiency shall be based on feasible and attainable efficiencies or feasible improved efficiencies that will reduce the energy or water consumption growth rates. The standards shall become effective no sooner than one year after the date of adoption or revision. No new appliance manufactured on or after the effective date of the standards may be sold or offered for sale in the state, unless it is certified by the manufacturer thereof to be in compliance with the standards. The standards shall be drawn so that they do not result in any added total costs for consumers over the designed life of the appliances concerned.

In order to increase public participation and improve the efficacy of the standards adopted pursuant to this subdivision, the commission shall, prior to publication of the notice of proposed action required by Section 18935 of the Health and Safety Code, involve parties who would be subject to the proposed regulations in public meetings regarding the

proposed regulations. All potential affected parties shall be provided advance notice of these meetings and given an opportunity to provide written or oral comments. During these public meetings, the commission shall receive and take into consideration input from all parties concerning the parties' design recommendations, cost considerations, and other factors that would affect consumers and California businesses of the proposed standard. The commission shall take into consideration prior to the start of the notice of proposed action any input provided during these public meetings.

The standards adopted or revised pursuant to this subdivision shall not result in any added total costs for consumers over the designed life of the appliances concerned. When determining cost-effectiveness, the commission shall consider the value of the water or energy saved, impact on product efficacy for the consumer, and the life cycle cost to the consumer of complying with the standard. The commission shall consider other relevant factors, as required by Sections 11346.5 and 11357 of the Government Code, including, but not limited to, the impact on housing costs, the total statewide costs and benefits of the standard over its lifetime, economic impact on California businesses, and alternative approaches and their associated costs.

(2) No new appliance, except for any plumbing fitting, regulated under paragraph (1), that is manufactured on or after July 1, 1984, may be sold, or offered for sale, in the state, unless the date of the manufacture is permanently displayed in an accessible place on that appliance.

(3) During the period of five years after the commission has adopted a standard for a particular appliance under paragraph (1), no increase or decrease in the minimum level of operating efficiency required by the standard for that appliance shall become effective, unless the commission adopts other cost-effective measures for that appliance.

(4) Neither the commission nor any other state agency shall take any action to decrease any standard adopted under this subdivision on or before June 30, 1985, prescribing minimum levels of operating efficiency or other energy conservation measures for any appliance, unless the commission finds by a four-fifths vote that a decrease is of benefit to ratepayers, and that there is significant evidence of changed circumstances. Before January 1, 1986, the commission shall not take any action to increase a standard prescribing minimum levels of operating efficiency for any appliance or adopt a new standard under paragraph (1). Before January 1, 1986, any appliance manufacturer doing business in this state shall provide directly, or through an appropriate trade or industry association, information, as specified by the commission after consultation with manufacturers doing business in the state and appropriate trade or industry associations on sales of appliances so that

the commission may study the effects of regulations on those sales. These informational requirements shall remain in effect until the information is received. The trade or industry association may submit sales information in an aggregated form in a manner that allows the commission to carry out the purposes of the study. The commission shall treat any sales information of an individual manufacturer as confidential and that information shall not be a public record. The commission shall not request any information that cannot be reasonably produced in the exercise of due diligence by the manufacturer. At least one year prior to the adoption or amendment of a standard for an appliance, the commission shall notify the Legislature of its intent, and the justification to adopt or amend a standard for the appliance. Notwithstanding paragraph (3) and this paragraph, the commission may do any of the following:

(A) Increase the minimum level of operating efficiency in an existing standard up to the level of the National Voluntary Consensus Standards 90, adopted by the American Society of Heating, Refrigeration, and Air Conditioning Engineers or, for appliances not covered by that standard, up to the level established in a similar nationwide consensus standard.

(B) Change the measure or rating of efficiency of any standard, if the minimum level of operating efficiency remains substantially the same.

(C) Adjust the minimum level of operating efficiency in an existing standard in order to reflect changes in test procedures that the standards require manufacturers to use in certifying compliance, if the minimum level of operating efficiency remains substantially the same.

(D) Readopt a standard preempted, enjoined, or otherwise found legally defective by an administrative agency or a lower court, if final legal action determines that the standard is valid and if the standard that is readopted is not more stringent than the standard that was found to be defective or preempted.

(E) Adopt or amend any existing or new standard at any level of operating efficiency, if the Governor has declared an energy emergency as described in Section 8558 of the Government Code.

(5) Notwithstanding paragraph (4), the commission may adopt standards pursuant to Commission Order No. 84-0111-1, on or before June 30, 1985.

(d) Recommend minimum standards of efficiency for the operation of any new facility at a particular site that are technically and economically feasible. No site and related facility shall be certified pursuant to Chapter 6 (commencing with Section 25500), unless the applicant certifies that standards recommended by the commission have been considered, which certification shall include a statement specifying

the extent to which conformance with the recommended standards will be achieved.

Whenever this section and Chapter 11.5 (commencing with Section 19878) of Part 3 of Division 13 of the Health and Safety Code are in conflict, the commission shall be governed by that chapter of the Health and Safety Code to the extent of the conflict.

(e) The commission shall do all of the following:

(1) Not later than January 1, 2004, amend any regulations in effect on January 1, 2003, pertaining to the energy efficiency standards for residential clothes washers to require that residential clothes washers manufactured on or after January 1, 2007, be at least as water efficient as commercial clothes washers.

(2) Not later than April 1, 2004, petition the federal Department of Energy for an exemption from any relevant federal regulations governing energy efficiency standards that are applicable to residential clothes washers.

(3) Not later than January 1, 2005, report to the Legislature on its progress with respect to the requirements of paragraphs (1) and (2).

SEC. 2. Section 25402 of the Public Resources Code is amended to read:

25402. The commission shall, after one or more public hearings, do all of the following, in order to reduce the wasteful, uneconomic, inefficient, or unnecessary consumption of energy, including the energy associated with the use of water:

(a) (1) Prescribe, by regulation, lighting, insulation climate control system, and other building design and construction standards that increase the efficiency in the use of energy and water for new residential and new nonresidential buildings. The commission shall periodically update the standards and adopt any revision that, in its judgment, it deems necessary. Six months after the commission certifies an energy conservation manual pursuant to subdivision (c) of Section 25402.1, no city, county, city and county, or state agency shall issue a permit for any building unless the building satisfies the standards prescribed by the commission pursuant to this subdivision or subdivision (b) of this section that are in effect on the date an application for a building permit is filed. Water efficiency standards adopted pursuant to this subdivision shall be demonstrated by the commission to be necessary to save energy.

(2) Prior to adopting a water efficiency standard for residential buildings, the Department of Housing and Community Development and the commission shall issue a joint finding whether the standard (A) is equivalent or superior in performance, safety, and for the protection of life, health, and general welfare to standards in Title 24 of the California Code of Regulations and (B) does not unreasonably or

unnecessarily impact the ability of Californians to purchase or rent affordable housing, as determined by taking account of the overall benefit derived from the water efficiency standards. Nothing in this subdivision in any way reduces the authority of the Department of Housing and Community Development to adopt standards and regulations pursuant to Part 1.5 (commencing with Section 17910) of Division 13 of the Health and Safety Code.

(3) Water efficiency standards and water conservation design standards adopted pursuant to this subdivision and subdivision (b) shall be consistent with the legislative findings of this division to ensure and maintain a reliable supply of electrical energy and be equivalent to or superior to the performance, safety, and protection of life, health, and general welfare standards contained in Title 24 of the California Code of Regulations. The commission shall consult with the members of the coordinating council as established in Section 18926 of the Health and Safety Code in the development of these standards.

(b) (1) Prescribe, by regulation, energy and water conservation design standards for new residential and new nonresidential buildings. The standards shall be performance standards and shall be promulgated in terms of energy consumption per gross square foot of floorspace, but may also include devices, systems, and techniques required to conserve energy and water. The commission shall periodically review the standards and adopt any revision that, in its judgment, it deems necessary. A building that satisfies the standards prescribed pursuant to this subdivision need not comply with the standards prescribed pursuant to subdivision (a). Water conservation design standards adopted pursuant to this subdivision shall be demonstrated by the commission to be necessary to save energy. Prior to adopting a water conservation design standard for residential buildings, the Department of Housing and Community Development and the commission shall issue a joint finding whether the standard (A) is equivalent or superior in performance, safety, and for the protection of life, health, and general welfare to standards in the California Building Standards Code and (B) does not unreasonably or unnecessarily impact the ability of Californians to purchase or rent affordable housing, as determined by taking account of the overall benefit derived from the water conservation design standards. Nothing in this subdivision in any way reduces the authority of the Department of Housing and Community Development to adopt standards and regulations pursuant to Part 1.5 (commencing with Section 17910) of Division 13 of the Health and Safety Code.

(2) In order to increase public participation and improve the efficacy of the standards adopted pursuant to subdivisions (a) and (b), the commission shall, prior to publication of the notice of proposed action

required by Section 18935 of the Health and Safety Code, involve parties who would be subject to the proposed regulations in public meetings regarding the proposed regulations. All potential affected parties shall be provided advance notice of these meetings and given an opportunity to provide written or oral comments. During these public meetings, the commission shall receive and take into consideration input from all parties concerning the parties' design recommendations, cost considerations, and other factors that would affect consumers and California businesses of the proposed standard. The commission shall take into consideration prior to the start of the notice of proposed action any input provided during these public meetings.

(3) The standards adopted or revised pursuant to subdivisions (a) and (b) shall be cost effective when taken in their entirety and when amortized over the economic life of the structure compared with historic practice. When determining cost-effectiveness, the commission shall consider the value of the water or energy saved, impact on product efficacy for the consumer, and the life cycle cost of complying with the standard. The commission shall consider other relevant factors, as required by Sections 18930 and 18935 of the Health and Safety Code, including, but not limited to, the impact on housing costs, the total statewide costs and benefits of the standard over its lifetime, economic impact on California businesses, and alternative approaches and their associated costs.

(c) (1) Prescribe, by regulation, standards for minimum levels of operating efficiency, based on a reasonable use pattern, and may prescribe other cost-effective measures, including incentive programs, fleet averaging, energy consumption labeling not preempted by federal labeling law, and consumer education programs, to promote the use of energy- and water-efficient appliances whose use, as determined by the commission, requires a significant amount of energy or water on a statewide basis. The minimum levels of operating efficiency shall be based on feasible and attainable efficiencies or feasible improved efficiencies that will reduce the energy or water consumption growth rates. The standards shall become effective no sooner than one year after the date of adoption or revision. No new appliance manufactured on or after the effective date of the standards may be sold or offered for sale in the state, unless it is certified by the manufacturer thereof to be in compliance with the standards. The standards shall be drawn so that they do not result in any added total costs for consumers over the designed life of the appliances concerned.

In order to increase public participation and improve the efficacy of the standards adopted pursuant to this subdivision, the commission shall, prior to publication of the notice of proposed action required by Section 18935 of the Health and Safety Code, involve parties who would be

subject to the proposed regulations in public meetings regarding the proposed regulations. All potential affected parties shall be provided advance notice of these meetings and given an opportunity to provide written or oral comments. During these public meetings, the commission shall receive and take into consideration input from all parties concerning the parties' design recommendations, cost considerations, and other factors that would affect consumers and California businesses of the proposed standard. The commission shall take into consideration prior to the start of the notice of proposed action any input provided during these public meetings.

The standards adopted or revised pursuant to this subdivision shall not result in any added total costs for consumers over the designed life of the appliances concerned. When determining cost-effectiveness, the commission shall consider the value of the water or energy saved, impact on product efficacy for the consumer, and the life cycle cost to the consumer of complying with the standard. The commission shall consider other relevant factors, as required by Sections 11346.5 and 11357 of the Government Code, including, but not limited to, the impact on housing costs, the total statewide costs and benefits of the standard over its lifetime, economic impact on California businesses, and alternative approaches and their associated costs.

(2) No new appliance, except for any plumbing fitting, regulated under paragraph (1), that is manufactured on or after July 1, 1984, may be sold, or offered for sale, in the state, unless the date of the manufacture is permanently displayed in an accessible place on that appliance.

(3) During the period of five years after the commission has adopted a standard for a particular appliance under paragraph (1), no increase or decrease in the minimum level of operating efficiency required by the standard for that appliance shall become effective, unless the commission adopts other cost-effective measures for that appliance.

(4) Neither the commission nor any other state agency shall take any action to decrease any standard adopted under this subdivision on or before June 30, 1985, prescribing minimum levels of operating efficiency or other energy conservation measures for any appliance, unless the commission finds by a four-fifths vote that a decrease is of benefit to ratepayers, and that there is significant evidence of changed circumstances. Before January 1, 1986, the commission shall not take any action to increase a standard prescribing minimum levels of operating efficiency for any appliance or adopt a new standard under paragraph (1). Before January 1, 1986, any appliance manufacturer doing business in this state shall provide directly, or through an appropriate trade or industry association, information, as specified by the commission after consultation with manufacturers doing business in the state and

appropriate trade or industry associations on sales of appliances so that the commission may study the effects of regulations on those sales. These informational requirements shall remain in effect until the information is received. The trade or industry association may submit sales information in an aggregated form in a manner that allows the commission to carry out the purposes of the study. The commission shall treat any sales information of an individual manufacturer as confidential and that information shall not be a public record. The commission shall not request any information that cannot be reasonably produced in the exercise of due diligence by the manufacturer. At least one year prior to the adoption or amendment of a standard for an appliance, the commission shall notify the Legislature of its intent, and the justification, to adopt or amend a standard for the appliance. Notwithstanding paragraph (3) and this paragraph, the commission may do any of the following:

(A) Increase the minimum level of operating efficiency in an existing standard up to the level of the National Voluntary Consensus Standards 90, adopted by the American Society of Heating, Refrigeration, and Air Conditioning Engineers or, for appliances not covered by that standard, up to the level established in a similar nationwide consensus standard.

(B) Change the measure or rating of efficiency of any standard, if the minimum level of operating efficiency remains substantially the same.

(C) Adjust the minimum level of operating efficiency in an existing standard in order to reflect changes in test procedures that the standards require manufacturers to use in certifying compliance, if the minimum level of operating efficiency remains substantially the same.

(D) Readopt a standard preempted, enjoined, or otherwise found legally defective by an administrative agency or a lower court, if final legal action determines that the standard is valid and if the standard that is readopted is not more stringent than the standard that was found to be defective or preempted.

(E) Adopt or amend any existing or new standard at any level of operating efficiency, if the Governor has declared an energy emergency as described in Section 8558 of the Government Code.

(5) Notwithstanding paragraph (4), the commission may adopt standards pursuant to Commission Order No. 84-0111-1, on or before June 30, 1985.

(d) Recommend minimum standards of efficiency for the operation of any new facility at a particular site that are technically and economically feasible. No site and related facility shall be certified pursuant to Chapter 6 (commencing with Section 25500), unless the applicant certifies that standards recommended by the commission have been considered, which certification shall include a statement specifying

the extent to which conformance with the recommended standards will be achieved.

Whenever this section and Chapter 11.5 (commencing with Section 19878) of Part 3 of Division 13 of the Health and Safety Code are in conflict, the commission shall be governed by that chapter of the Health and Safety Code to the extent of the conflict.

(e) The commission shall do all of the following:

(1) Not later than January 1, 2004, amend any regulations in effect on January 1, 2003, pertaining to the energy efficiency standards for residential clothes washers to require that residential clothes washers manufactured on or after January 1, 2007, be at least as water efficient as commercial clothes washers.

(2) Not later than April 1, 2004, petition the federal Department of Energy for an exemption from any relevant federal regulations governing energy efficiency standards that are applicable to residential clothes washers.

(3) Not later than January 1, 2005, report to the Legislature on its progress with respect to the requirements of paragraphs (1) and (2).

SEC. 3. Section 2 of this bill incorporates amendments to Section 25402 of the Public Resources Code proposed by both this bill and AB 1560. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2008, (2) each bill amends Section 25402 of the Public Resources Code, and (3) this bill is enacted after AB 1560, in which case Section 1 of this bill shall not become operative.

CHAPTER 532

An act to add Section 17921.10 to the Health and Safety Code, and to amend Section 25402 of the Public Resources Code, relating to public resources.

[Approved by Governor October 12, 2007. Filed with Secretary of State October 12, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 17921.10 is added to the Health and Safety Code, to read:

17921.10. (a) The standards proposed by the department pursuant to Section 17921 may include voluntary best practice and mandatory requirements related to environmentally preferable water using devices

and measures. The standards shall not unreasonably or unnecessarily impact the ability of Californians to purchase or rent affordable housing, as determined by taking account of the overall benefit derived from the standards.

(b) Nothing in this section shall in any way reduce the authority of the State Energy Resources Conservation and Development Commission to adopt standards and regulations or take other actions pursuant to Division 15 (commencing with Section 25000) of the Public Resources Code.

SEC. 2. Section 25402 of the Public Resources Code is amended to read:

25402. The commission shall, after one or more public hearings, do all of the following, in order to reduce the wasteful, uneconomic, inefficient, or unnecessary consumption of energy, including the energy associated with the use of water:

(a) (1) Prescribe, by regulation, lighting, insulation climate control system, and other building design and construction standards that increase the efficiency in the use of energy and water for new residential and new nonresidential buildings. The commission shall periodically update the standards and adopt any revision that, in its judgment, it deems necessary. Six months after the commission certifies an energy conservation manual pursuant to subdivision (c) of Section 25402.1, no city, county, city and county, or state agency shall issue a permit for any building unless the building satisfies the standards prescribed by the commission pursuant to this subdivision or subdivision (b) of this section that are in effect on the date an application for a building permit is filed. Water efficiency standards adopted pursuant to this subdivision shall be demonstrated by the commission to be necessary to save energy.

(2) Prior to adopting a water efficiency standard for residential buildings, the Department of Housing and Community Development and the commission shall issue a joint finding whether the standard (A) is equivalent or superior in performance, safety, and for the protection of life, health, and general welfare to standards in Title 24 of the California Code of Regulations and (B) does not unreasonably or unnecessarily impact the ability of Californians to purchase or rent affordable housing, as determined by taking account of the overall benefit derived from the water efficiency standards. Nothing in this subdivision in any way reduces the authority of the Department of Housing and Community Development to adopt standards and regulations pursuant to Part 1.5 (commencing with Section 17910) of Division 13 of the Health and Safety Code.

(3) Water efficiency standards and water conservation design standards adopted pursuant to this subdivision and subdivision (b) shall be

consistent with the legislative findings of this division to ensure and maintain a reliable supply of electrical energy and be equivalent to or superior to the performance, safety, and protection of life, health, and general welfare standards contained in Title 24 of the California Code of Regulations. The commission shall consult with the members of the coordinating council as established in Section 18926 of the Health and Safety Code in the development of these standards.

(b) (1) Prescribe, by regulation, energy and water conservation design standards for new residential and new nonresidential buildings. The standards shall be performance standards and shall be promulgated in terms of energy consumption per gross square foot of floorspace, but may also include devices, systems, and techniques required to conserve energy and water. The commission shall periodically review the standards and adopt any revision that, in its judgment, it deems necessary. A building that satisfies the standards prescribed pursuant to this subdivision need not comply with the standards prescribed pursuant to subdivision (a). Water conservation design standards adopted pursuant to this subdivision shall be demonstrated by the commission to be necessary to save energy. Prior to adopting a water conservation design standard for residential buildings, the Department of Housing and Community Development and the commission shall issue a joint finding whether the standard (A) is equivalent or superior in performance, safety, and for the protection of life, health, and general welfare to standards in the California Building Standards Code and (B) does not unreasonably or unnecessarily impact the ability of Californians to purchase or rent affordable housing, as determined by taking account of the overall benefit derived from the water conservation design standards. Nothing in this subdivision in any way reduces the authority of the Department of Housing and Community Development to adopt standards and regulations pursuant to Part 1.5 (commencing with Section 17910) of Division 13 of the Health and Safety Code.

(2) In order to increase public participation and improve the efficacy of the standards adopted pursuant to subdivisions (a) and (b), the commission shall, prior to publication of the notice of proposed action required by Section 18935 of the Health and Safety Code, involve parties who would be subject to the proposed regulations in public meetings regarding the proposed regulations. All potential affected parties shall be provided advance notice of these meetings and given an opportunity to provide written or oral comments. During these public meetings, the commission shall receive and take into consideration input from all parties concerning the parties' design recommendations, cost considerations, and other factors that would affect consumers and California businesses of the proposed standard. The commission shall

take into consideration prior to the start of the notice of proposed action any input provided during these public meetings.

(3) The standards adopted or revised pursuant to subdivisions (a) and (b) shall be cost-effective when taken in their entirety and when amortized over the economic life of the structure compared with historic practice. When determining cost-effectiveness, the commission shall consider the value of the water or energy saved, impact on product efficacy for the consumer, and the life cycle cost of complying with the standard. The commission shall consider other relevant factors, as required by Sections 18930 and 18935 of the Health and Safety Code, including, but not limited to, the impact on housing costs, the total statewide costs and benefits of the standard over its lifetime, economic impact on California businesses, and alternative approaches and their associated costs.

(c) (1) Prescribe, by regulation, standards for minimum levels of operating efficiency, based on a reasonable use pattern, and may prescribe other cost-effective measures, including incentive programs, fleet averaging, energy consumption labeling not preempted by federal labeling, and consumer education programs, to promote the use of energy efficient appliances whose use, as determined by the commission, requires a significant amount of energy on a statewide basis. The minimum levels of operating efficiency shall be based on feasible and attainable efficiencies or feasible improved efficiencies that will reduce the electrical energy consumption growth rate. The standards shall become effective no sooner than one year after the date of adoption or revision. No new appliance manufactured on or after the effective date of the standards may be sold or offered for sale in the state, unless it is certified by the manufacturer thereof to be in compliance with the standards. The standards shall be drawn so that they do not result in any added total costs to the consumer over the designed life of the appliances concerned.

(2) No new appliance, except for any plumbing fitting, regulated under paragraph (1), which is manufactured on or after July 1, 1984, may be sold, or offered for sale, in the state, unless the date of the manufacture is permanently displayed in an accessible place on that appliance.

(3) During the period of five years after the commission has adopted a standard for a particular appliance under paragraph (1), no increase or decrease in the minimum level of operating efficiency required by the standard for that appliance shall become effective, unless the commission adopts other cost-effective measures for that appliance.

(4) Neither the commission nor any other state agency shall take any action to decrease any standard adopted under this subdivision on or

before June 30, 1985, prescribing minimum levels of operating efficiency or other energy conservation measures for any appliance, unless the commission finds by a four-fifths vote that a decrease is of benefit to ratepayers, and that there is significant evidence of changed circumstances. Prior to January 1, 1986, the commission shall not take any action to increase any standard prescribing minimum levels of operating efficiency for any appliance or adopt any new standard under paragraph (1). Prior to January 1, 1986, any appliance manufacturer doing business in this state shall provide directly, or through an appropriate trade or industry association, information, as specified by the commission after consultation with manufacturers doing business in the state and appropriate trade or industry associations on sales of appliances so that the commission may study the effects of regulations on those sales. These informational requirements shall remain in effect until the information is received. The trade or industry association may submit sales information in an aggregated form in a manner that allows the commission to carry out the purposes of the study. The commission shall treat any sales information of an individual manufacturer as confidential and that information shall not be a public record. The commission shall not request any information that cannot be reasonably produced in the exercise of due diligence by the manufacturer. At least one year prior to the adoption or amendment of a standard for an appliance, the commission shall notify the Legislature of its intent, and the justification to adopt or amend a standard for the appliance. Notwithstanding paragraph (3) and this paragraph, the commission may do any of the following:

(A) Increase the minimum level of operating efficiency in an existing standard up to the level of the National Voluntary Consensus Standards 90, adopted by the American Society of Heating, Refrigeration, and Air Conditioning Engineers or, for appliances not covered by that standard, up to the level established in a similar nationwide consensus standard.

(B) Change the measure or rating of efficiency of any standard, if the minimum level of operating efficiency remains substantially the same.

(C) Adjust the minimum level of operating efficiency in an existing standard in order to reflect changes in test procedures that the standards require manufacturers to use in certifying compliance, if the minimum level of operating efficiency remains substantially the same.

(D) Readopt a standard preempted, enjoined, or otherwise found legally defective by an administrative agency or a lower court, if final legal action determines that the standard is valid and if the standard that is readopted is not more stringent than the standard that was found to be defective or preempted.

(E) Adopt or amend any existing or new standard at any level of operating efficiency, if the Governor has declared an energy emergency pursuant to Section 8558 of the Government Code.

(5) Notwithstanding paragraph (4), the commission may adopt standards pursuant to Commission Order No. 84-0111-1, on or before June 30, 1985.

(d) Recommend minimum standards of efficiency for the operation of any new facility at a particular site that are technically and economically feasible. No site and related facility shall be certified pursuant to Chapter 6 (commencing with Section 25500), unless the applicant certifies that standards recommended by the commission have been considered, which certification shall include a statement specifying the extent to which conformance with the recommended standards will be achieved.

Whenever this section and Chapter 11.5 (commencing with Section 19878) of Part 3 of Division 13 of the Health and Safety Code are in conflict, the commission shall be governed by that chapter of the Health and Safety Code to the extent of the conflict.

(e) The commission shall do all of the following:

(1) Not later than January 1, 2004, amend any regulations in effect on January 1, 2003, pertaining to the energy efficiency standards for residential clothes washers to require that residential clothes washers manufactured on or after January 1, 2007, be at least as water efficient as commercial clothes washers.

(2) Not later than April 1, 2004, petition the federal Department of Energy for an exemption from any relevant federal regulations governing energy efficiency standards that are applicable to residential clothes washers.

(3) Not later than January 1, 2005, report to the Legislature on its progress with respect to the requirements of paragraphs (1) and (2).

SEC. 3. Section 25402 of the Public Resources Code is amended to read:

25402. The commission shall, after one or more public hearings, do all of the following, in order to reduce the wasteful, uneconomic, inefficient, or unnecessary consumption of energy, including the energy associated with the use of water:

(a) (1) Prescribe, by regulation, lighting, insulation climate control system, and other building design and construction standards that increase the efficiency in the use of energy and water for new residential and new nonresidential buildings. The commission shall periodically update the standards and adopt any revision that, in its judgment, it deems necessary. Six months after the commission certifies an energy conservation manual pursuant to subdivision (c) of Section 25402.1, no city, county, city and

county, or state agency shall issue a permit for any building unless the building satisfies the standards prescribed by the commission pursuant to this subdivision or subdivision (b) that are in effect on the date an application for a building permit is filed. Water efficiency standards adopted pursuant to this subdivision shall be demonstrated by the commission to be necessary to save energy.

(2) Prior to adopting a water efficiency standard for residential buildings, the Department of Housing and Community Development and the commission shall issue a joint finding whether the standard (A) is equivalent or superior in performance, safety, and for the protection of life, health, and general welfare to standards in Title 24 of the California Code of Regulations and (B) does not unreasonably or unnecessarily impact the ability of Californians to purchase or rent affordable housing, as determined by taking account of the overall benefit derived from water efficiency standards. Nothing in this subdivision in any way reduces the authority of the Department of Housing and Community Development to adopt standards and regulations pursuant to Part 1.5 (commencing with Section 17910) of Division 13 of the Health and Safety Code.

(3) Water efficiency standards and water conservation design standards adopted pursuant to this subdivision and subdivision (b) shall be consistent with the legislative findings of this division to ensure and maintain a reliable supply of electrical energy and be equivalent to or superior to the performance, safety, and protection of life, health, and general welfare standards contained in Title 24 of the California Code of Regulations. The commission shall consult with the members of the coordinating council as established in Section 18926 of the Health and Safety Code in the development of these standards.

(b) (1) Prescribe, by regulation, energy and water conservation design standards for new residential and new nonresidential buildings. The standards shall be performance standards and shall be promulgated in terms of energy consumption per gross square foot of floorspace, but may also include devices, systems, and techniques required to conserve energy and water. The commission shall periodically review the standards and adopt any revision that, in its judgment, it deems necessary. A building that satisfies the standards prescribed pursuant to this subdivision need not comply with the standards prescribed pursuant to subdivision (a). Water conservation design standards adopted pursuant to this subdivision shall be demonstrated by the commission to be necessary to save energy. Prior to adopting a water conservation design standard for residential buildings, the Department of Housing and Community Development and the commission shall issue a joint finding whether the standard (A) is equivalent or superior in performance, safety, and for

the protection of life, health, and general welfare to standards in the California Building Standards Code and (B) does not unreasonably or unnecessarily impact the ability of Californians to purchase or rent affordable housing, as determined by taking account of the overall benefit derived from the water conservation design standards. Nothing in this subdivision in any way reduces the authority of the Department of Housing and Community Development to adopt standards and regulations pursuant to Part 1.5 (commencing with Section 17910) of Division 13 of the Health and Safety Code.

(2) In order to increase public participation and improve the efficacy of the standards adopted pursuant to subdivisions (a) and (b), the commission shall, prior to publication of the notice of proposed action required by Section 18935 of the Health and Safety Code, involve parties who would be subject to the proposed regulations in public meetings regarding the proposed regulations. All potential affected parties shall be provided advance notice of these meetings and given an opportunity to provide written or oral comments. During these public meetings, the commission shall receive and take into consideration input from all parties concerning the parties' design recommendations, cost considerations, and other factors that would affect consumers and California businesses of the proposed standard. The commission shall take into consideration prior to the start of the notice of proposed action any input provided during these public meetings.

(3) The standards adopted or revised pursuant to subdivisions (a) and (b) shall be cost-effective when taken in their entirety and when amortized over the economic life of the structure compared with historic practice. When determining cost-effectiveness, the commission shall consider the value of the water or energy saved, impact on product efficacy for the consumer, and the life cycle cost of complying with the standard. The commission shall consider other relevant factors, as required by Sections 18930 and 18935 of the Health and Safety Code, including, but not limited to, the impact on housing costs, the total statewide costs and benefits of the standard over its lifetime, economic impact on California businesses, and alternative approaches and their associated costs.

(c) (1) Prescribe, by regulation, standards for minimum levels of operating efficiency, based on a reasonable use pattern, and may prescribe other cost-effective measures, including incentive programs, fleet averaging, energy and water consumption labeling not preempted by federal labeling law, and consumer education programs, to promote the use of energy and water efficient appliances whose use, as determined by the commission, requires a significant amount of energy or water on a statewide basis. The minimum levels of operating efficiency shall be

based on feasible and attainable efficiencies or feasible improved efficiencies that will reduce the energy or water consumption growth rates. The standards shall become effective no sooner than one year after the date of adoption or revision. No new appliance manufactured on or after the effective date of the standards may be sold or offered for sale in the state, unless it is certified by the manufacturer thereof to be in compliance with the standards. The standards shall be drawn so that they do not result in any added total costs for consumers over the designed life of the appliances concerned.

In order to increase public participation and improve the efficacy of the standards adopted pursuant to this subdivision, the commission shall, prior to publication of the notice of proposed action required by Section 18935 of the Health and Safety Code, involve parties who would be subject to the proposed regulations in public meetings regarding the proposed regulations. All potential affected parties shall be provided advance notice of these meetings and given an opportunity to provide written or oral comments. During these public meetings, the commission shall receive and take into consideration input from all parties concerning the parties' design recommendations, cost considerations, and other factors that would affect consumers and California businesses of the proposed standard. The commission shall take into consideration prior to the start of the notice of proposed action any input provided during these public meetings.

The standards adopted or revised pursuant to this subdivision shall not result in any added total costs for consumers over the designed life of the appliances concerned. When determining cost-effectiveness, the commission shall consider the value of the water or energy saved, impact on product efficacy for the consumer, and the life cycle cost to the consumer of complying with the standard. The commission shall consider other relevant factors, as required by Sections 11346.5 and 11357 of the Government Code, including, but not limited to, the impact on housing costs, the total statewide costs and benefits of the standard over its lifetime, economic impact on California businesses, and alternative approaches and their associated costs.

(2) No new appliance, except for any plumbing fitting, regulated under paragraph (1), that is manufactured on or after July 1, 1984, may be sold, or offered for sale, in the state, unless the date of the manufacture is permanently displayed in an accessible place on that appliance.

(3) During the period of five years after the commission has adopted a standard for a particular appliance under paragraph (1), no increase or decrease in the minimum level of operating efficiency required by the standard for that appliance shall become effective, unless the commission adopts other cost-effective measures for that appliance.

(4) Neither the commission nor any other state agency shall take any action to decrease any standard adopted under this subdivision on or before June 30, 1985, prescribing minimum levels of operating efficiency or other energy conservation measures for any appliance, unless the commission finds by a four-fifths vote that a decrease is of benefit to ratepayers, and that there is significant evidence of changed circumstances. Before January 1, 1986, the commission shall not take any action to increase a standard prescribing minimum levels of operating efficiency for any appliance or adopt a new standard under paragraph (1). Before January 1, 1986, any appliance manufacturer doing business in this state shall provide directly, or through an appropriate trade or industry association, information, as specified by the commission after consultation with manufacturers doing business in the state and appropriate trade or industry associations on sales of appliances so that the commission may study the effects of regulations on those sales. These informational requirements shall remain in effect until the information is received. The trade or industry association may submit sales information in an aggregated form in a manner that allows the commission to carry out the purposes of the study. The commission shall treat any sales information of an individual manufacturer as confidential and that information shall not be a public record. The commission shall not request any information that cannot be reasonably produced in the exercise of due diligence by the manufacturer. At least one year prior to the adoption or amendment of a standard for an appliance, the commission shall notify the Legislature of its intent, and the justification to adopt or amend a standard for the appliance. Notwithstanding paragraph (3) and this paragraph, the commission may do any of the following:

(A) Increase the minimum level of operating efficiency in an existing standard up to the level of the National Voluntary Consensus Standards 90, adopted by the American Society of Heating, Refrigeration, and Air Conditioning Engineers or, for appliances not covered by that standard, up to the level established in a similar nationwide consensus standard.

(B) Change the measure or rating of efficiency of any standard, if the minimum level of operating efficiency remains substantially the same.

(C) Adjust the minimum level of operating efficiency in an existing standard in order to reflect changes in test procedures that the standards require manufacturers to use in certifying compliance, if the minimum level of operating efficiency remains substantially the same.

(D) Readopt a standard preempted, enjoined, or otherwise found legally defective by an administrative agency or a lower court, if final legal action determines that the standard is valid and if the standard that

is readopted is not more stringent than the standard that was found to be defective or preempted.

(E) Adopt or amend any existing or new standard at any level of operating efficiency, if the Governor has declared an energy emergency as described in Section 8558 of the Government Code.

(5) Notwithstanding paragraph (4), the commission may adopt standards pursuant to Commission Order No. 84-0111-1, on or before June 30, 1985.

(d) Recommend minimum standards of efficiency for the operation of any new facility at a particular site that are technically and economically feasible. No site and related facility shall be certified pursuant to Chapter 6 (commencing with Section 25500), unless the applicant certifies that standards recommended by the commission have been considered, which certification shall include a statement specifying the extent to which conformance with the recommended standards will be achieved.

Whenever this section and Chapter 11.5 (commencing with Section 19878) of Part 3 of Division 13 of the Health and Safety Code are in conflict, the commission shall be governed by that chapter of the Health and Safety Code to the extent of the conflict.

(e) The commission shall do all of the following:

(1) Not later than January 1, 2004, amend any regulations in effect on January 1, 2003, pertaining to the energy efficiency standards for residential clothes washers to require that residential clothes washers manufactured on or after January 1, 2007, be at least as water efficient as commercial clothes washers.

(2) Not later than April 1, 2004, petition the federal Department of Energy for an exemption from any relevant federal regulations governing energy efficiency standards that are applicable to residential clothes washers.

(3) Not later than January 1, 2005, report to the Legislature on its progress with respect to the requirements of paragraphs (1) and (2).

SEC. 4. Section 3 of this bill incorporates amendments to Section 25402 of the Public Resources Code proposed by both this bill and AB 662. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2008, (2) each bill amends Section 25402 of the Public Resources Code, and (3) this bill is enacted after AB 662, in which case Section 2 of this bill shall not become operative.

CHAPTER 533

An act to add Section 25402.10 to the Public Resources Code, relating to energy.

[Approved by Governor October 12, 2007. Filed with Secretary of State October 12, 2007.]

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares both of the following:

(a) Facilitating a benchmarking system that provides energy consumption information for all nonresidential buildings in the state would allow building owners and operators to compare their building's performance to that of similar buildings and to manage their building's energy cost.

(b) Benchmarking scores could motivate building operators to take actions to improve the building's energy profile and help to justify financial investments.

SEC. 2. Section 25402.10 is added to the Public Resources Code, to read:

25402.10. (a) On and after January 1, 2009, electric and gas utilities shall maintain records of the energy consumption data of all nonresidential buildings to which they provide service. This data shall be maintained, in a format compatible for uploading to the United States Environmental Protection Agency's Energy Star Portfolio Manager, for at least the most recent 12 months.

(b) On and after January 1, 2009, upon the written authorization or secure electronic authorization of a nonresidential building owner or operator, an electric or gas utility shall upload all of the energy consumption data for the account specified for a building to the United States Environmental Protection Agency's Energy Star Portfolio Manager in a manner that preserves the confidentiality of the customer.

(c) In carrying out the requirements of this section, an electric or gas utility may use any method for providing the specified data in order to maximize efficiency and minimize overall program cost, and is encouraged to work with the United States Environmental Protection Agency and customers in developing reasonable reporting options.

(d) On and after January 1, 2010, an owner or operator of a nonresidential building shall disclose the United States Environmental Protection Agency's Energy Star Portfolio Manager benchmarking data and ratings for the most recent 12-month period to a prospective buyer, lessee of the entire building, or lender that would finance the entire

building. If the data is delivered to a prospective buyer, lessee, or lender, a property owner, operator, or their agent is not required to provide additional information, and the information shall be deemed to be adequate to inform the prospective buyer, lessee or lender regarding the United States Environmental Protection Agency's Energy Star Portfolio Manager benchmarking data and ratings for the most recent 12-month period for the building that is being sold, leased, financed, or refinanced.

(e) Notwithstanding subdivision (d), nothing in this section increases or decreases the duties, if any, of a property owner, operator, or his or her broker or agent under this chapter or alters the duty of a seller, agent, or broker to disclose the existence of a material fact affecting the real property.

CHAPTER 534

An act to add Article 10.02 (commencing with Section 25210.9) to Chapter 6.5 of Division 20 of, and to repeal Section 25210.11 of, the Health and Safety Code, and to add Section 25402.5.4 to the Public Resources Code, relating to energy resources.

[Approved by Governor October 12, 2007. Filed with Secretary of State October 12, 2007.]

The people of the State of California do enact as follows:

SECTION 1. This act shall be known and may be cited as the California Lighting Efficiency and Toxics Reduction Act.

SEC. 2. The Legislature finds and declares all of the following:

(a) This state has long been a national and international leader on energy conservation and environmental stewardship efforts, including the areas of air quality protections, energy efficiency requirements, renewable energy standards, natural resource conservation, toxic waste reduction, recycling, and greenhouse gas emission reduction.

(b) Energy consumption for lighting accounts for nearly 20 percent of the state's electricity demand. The energy efficiencies of existing lighting technologies vary significantly, and while California leads the nation in the use of energy-efficient compact fluorescent lighting, more than 94 percent of current light bulb purchases are for less efficient incandescent bulbs.

(c) Transitioning to currently available higher efficiency lighting technologies will substantially reduce energy consumption and pollution,

including reducing greenhouse gas emissions, while lowering costs to consumers.

(d) The goal of the United States Department of Energy's (DOE) Building Technologies Lighting Research and Development Program is to develop and demonstrate energy-efficient, high-quality, long-lasting lighting technologies by 2025 that have the technical capability of illuminating buildings using 50 percent less electricity compared to technologies in 2005.

(e) Many existing lighting choices contain toxic materials. Most fluorescent lighting products contain mercury. Most incandescent lighting products contain lead. California prohibits disposing of lighting products containing hazardous levels of metal in the solid waste stream. The hazardous material in waste lighting products can be managed through recycling, but recycling opportunities are currently inconvenient or nonexistent for most consumers.

(f) Fluorescent lighting products delivering the same level of light at the same level of efficiency can have varying levels of mercury. The California Department of General Services has adopted a procurement preference favoring low-mercury fluorescent lamps.

(g) Coal-generated electricity in the United States accounts for more than six million tons of mercury emissions annually, and while growth in the use of energy-efficient fluorescent lighting without expanded recycling will result in increased disposal of mercury in the waste stream, the United States Environmental Protection Agency has concluded that shifting from incandescent lighting to more efficient compact fluorescent lighting will result in a net reduction in total United States mercury emissions due to the displacement of coal-fired electricity generation.

(h) It is the intent of the Legislature that the State Energy Resources Conservation and Development Commission develop a strategy for substantially increasing the use of energy-efficient lighting and phasing out the use of energy-inefficient lighting over the next decade.

(i) It is the intent of the Legislature to have a system established for the recycling of hazardous lighting products that is free and convenient for end users.

SEC. 3. Article 10.02 (commencing with Section 25210.9) is added to Chapter 6.5 of Division 20 of the Health and Safety Code, to read:

Article 10.02. Lighting Toxics Reduction

25210.9. (a) Except as provided in subdivisions (e), (f), and (g), on and after January 1, 2010, a person shall not manufacture general purpose lights for sale in this state that contain levels of hazardous substances that would result in the prohibition of those general purpose lights being

sold or offered for sale in the European Union pursuant to the RoHS Directive.

(b) Except as provided in subdivisions (e), (f), and (g), on and after January 1, 2010, a person shall not sell or offer for sale in this state general purpose light under any of the following circumstances:

(1) The general purpose light being sold or offered for sale was manufactured on and after January 1, 2010, and contains levels of hazardous substances that would result in the prohibition of those general purpose lights being sold or offered for sale in the European Union pursuant to the RoHS Directive.

(2) The manufacturer of the general purpose light sold or being offered for sale fails to provide the documentation to the department required by subdivision (h).

(3) The manufacturer of the general purpose light being sold or offered for sale does not provide the certification required in subdivision (i).

(c) For the purposes of this section, "RoHS Directive" means Directive 2002/95/EC, adopted by the European Parliament and the Council of the European Union on January 27, 2003, on the restriction of certain hazardous substances in electrical and electronic equipment, as amended thereafter by the Commission of European Communities (13.2.2003 Official Journal of the European Union).

(d) The department shall determine the products covered by the RoHS Directive by reference to authoritative guidance published by the United Kingdom implementing the RoHS Directive in that country.

(e) (1) Except as provided in paragraph (2), subdivisions (a), (b), (h), and (i) do not apply to high output and very high output linear fluorescent lamps greater than 32 millimeters in diameter and preheat linear fluorescent lamps.

(2) On or after January 1, 2014, the department shall determine, in consultation with companies that manufacture lamps specified in paragraph (1) in the United States, if those lamps should be subject to the requirements of subdivisions (a), (b), (h), and (i), taking into consideration changes in lamp design or manufacturing technology that will allow for the removal or reduction of mercury.

(f) On and after January 1, 2012, for high intensity discharge lamps and compact fluorescent lamps greater than nine inches in length subdivisions (a), (b), (h), and (i) shall be applicable.

(g) On and after January 1, 2014, for state-regulated general service incandescent lamps and enhanced spectrum lamps as defined in subdivision (k) of Section 1602 of Title 20 of the California Code of Regulations subdivisions (a), (b), (h), and (i) shall be applicable.

(h) A manufacturer of general purpose lights sold or being offered for sale in California shall prepare and, at the request of the department,

submit within 28 days of the date of the request, technical documentation or other information showing that the manufacturer's general purpose lights sold or offered for sale in this state comply with the requirements of the RoHS Directive.

(i) A manufacturer of general purpose lights sold or being offered for sale in California shall provide, upon request, a certification to a person who sells or offers for sale that manufacturer's general purpose lights. The certification shall attest that the general purpose lights do not contain levels of hazardous substances that would result in the prohibition of those general purpose lights being sold or offered for sale in California. Alternatively, the manufacturer may display the certification required by this subdivision prominently on the shipping container or on the packaging of general purpose lights.

(j) The department may adopt regulations to implement and administer this article.

25210.10. (a) For purposes of this article, "general purpose lights" means lamps, bulbs, tubes, or other electric devices that provide functional illumination for indoor residential, indoor commercial, and outdoor use.

(b) General purpose lights do not include any of the following specialty lighting: appliance, black light, bug, colored, infrared, left-hand thread, marine, marine signal service, mine service, plant light, reflector, rough service, shatter resistant, sign service, silver bowl, showcase, three-way, traffic signal, and vibration service or vibration resistant.

(c) General purpose lights do not include lights needed to provide special-needs lighting for individuals with exceptional needs.

25210.11. (a) The department shall, in coordination with the California Integrated Waste Management Board, convene a task force consisting of, but not limited to, representatives of the lighting industry, environmental organizations, the recycling industry, individuals and private sector entities, local governments, energy utilities, and retailers to consider and make recommendations on all of the following:

(1) The most effective, cost-efficient, and convenient method for the consumer to provide for the proper collection and recycling of any end-of-life general purpose lights generated in this state.

(2) Methods to educate consumers about the proper management and collection opportunities for end-of-life general purpose lights.

(3) Designations on the general purpose light and light packaging regarding the proper recycling of the light and compliance of the light with this article.

(b) The task force shall conclude its work and make recommendations to the Legislature on or before September 1, 2008.

(c) This section shall remain in effect only until January 1, 2009, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2009, deletes or extends that date.

25210.12. Notwithstanding Article 8 (commencing with Section 25180), a person who violates this article shall not be subject to any criminal penalties imposed pursuant to Article 8 (commencing with Section 25180).

SEC. 4. Section 25402.5.4 is added to the Public Resources Code, to read:

25402.5.4. (a) On or before December 31, 2008, the commission shall adopt minimum energy efficiency standards for all general purpose lights on a schedule specified in the regulations. The regulations, in combination with other programs and activities affecting lighting use in the state, shall be structured to reduce average statewide electrical energy consumption by not less than 50 percent from the 2007 levels for indoor residential lighting and by not less than 25 percent from the 2007 levels for indoor commercial and outdoor lighting, by 2018.

(b) The commission shall make recommendations to the Governor and the Legislature regarding how to continue reductions in electrical consumption for lighting beyond 2018.

(c) The commission may establish programs to encourage the sale in this state of general purpose lights that meet or exceed the standards set forth in subdivision (a).

(d) (1) Except as provided in paragraph (2), the Department of General Services, and all other state agencies, as defined in Section 12000 of the Public Contract Code, in coordination with the commission, shall cease purchasing general purpose lights that do not meet the standards adopted pursuant to subdivision (a), within two years of those standards being adopted.

(2) The Department of General Services, and all other state agencies, as defined in Section 12000 of the Public Contract Code, in coordination with the commission shall cease purchasing general service lights with an appearance that is historically appropriate for the facilities in which the lights are being used, and that do not meet the standards adopted pursuant to subdivision (a) within four years of those standards being adopted.

(e) It is the intent of the Legislature to encourage the Regents of the University of California, in coordination with the commission, to cease purchasing general purpose lights that do not meet the standards adopted pursuant to subdivision (a), within two years of those standards being adopted.

(f) (1) (A) For purposes of this section, “general purpose lights” means lamps, bulbs, tubes, or other electric devices that provide

functional illumination for indoor residential, indoor commercial, and outdoor use.

(B) General purpose lights do not include any of the following specialty lighting: appliance, black light, bug, colored, infrared, left-hand thread, marine, marine signal service, mine service, plant light, reflector, rough service, shatter resistant, sign service, silver bowl, showcase, three-way, traffic signal, and vibration service or vibration resistant.

(2) The commission may, after one or more public workshops, with public notice and an opportunity for all interested parties to comment, provide for inclusion of a particular type of specialty light in its energy efficiency standards applicable to general purpose lighting, if it finds that there has been a significant increase in sales of that particular type of particular specialty light due to the use of that specialty light in general purpose lighting applications.

(3) General purpose lights do not include lights needed to provide special-needs lighting for individuals with exceptional needs.

SEC. 5. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

CHAPTER 535

An act to add Section 13552.5 to the Water Code, relating to water.

[Approved by Governor October 12, 2007. Filed with Secretary of State October 12, 2007.]

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares as follows:

(a) On September 22, 1989, the United States Environmental Protection Agency granted the State of California, through the State Water Resources Control Board and the California regional water quality control boards, the authority to issue national pollutant discharge elimination system (NPDES) permits pursuant to Part 122 (commencing with Section 122.1) and Part 123 (commencing with Section 123.1) of Title 40 of the Code of Federal Regulations.

(b) Section 122.28 of Title 40 of the Code of Federal Regulations provides for the issuance of general permits to regulate a category of point sources of pollution if the sources meet all of the following requirements:

(1) Involve the same or substantially similar types of operations.

(2) Discharge the same type of waste.

(3) Require the same type of effluent limitations or operating conditions.

(4) Require similar monitoring.

(5) Are more appropriately regulated under a general permit instead of individual permits.

(c) General waste discharge requirements expedite the processing of requirements, simplify the application process for dischargers, better utilize limited staff and resources, and avoid the expense and time involved in repetitive public noticing, hearings, and permit adoptions.

(d) The Legislature has declared a policy for the state to undertake all possible steps to encourage the development of water recycling facilities so that recycled water may be made available to help meet the growing requirements of the state.

(e) The Legislature has declared that the use of potable domestic water for nonpotable uses, including, but not limited to, irrigation uses for cemeteries, golf courses, parks, and highway landscaped areas, is a waste and unreasonable use if recycled water is available to meet the conditions needed for the use.

(f) The 2002 Recycled Water Task Force, convened pursuant to Section 13578 of the Water Code, concluded that inconsistent regulation of water recycling by state and local officials leads to confusion and uncertainty with regard to the design and management of water reuse systems. That inconsistent regulation appears to have led to the imposition of overly restrictive water recycling requirements and added costs, thereby creating an obstacle to achieving the full potential for water reuse.

(g) The 2002 Recycled Water Task Force recommended that the state board appoint and empower a key person to act as ombudsperson with regard to the water recycling permits issued by the various regional boards.

(h) Therefore, it is the intent of the Legislature to create a uniform interpretation of state standards to ensure the safe, reliable use of recycled water for landscape irrigation uses consistent with state and federal water quality law.

SEC. 2. Section 13552.5 is added to the Water Code, to read:

13552.5. (a) (1) On or before July 31, 2009, the state board shall adopt a general permit for landscape irrigation uses of recycled water for which the State Department of Public Health has established uniform statewide recycling criteria pursuant to Section 13521.

(2) The state board shall establish criteria to determine eligibility for coverage under the general permit.

(3) For the purpose of developing the general permit and establishing eligibility criteria to carry out paragraph (1), the state board shall hold at least one workshop and shall consult with and consider comments from the regional boards, groundwater management agencies and water replenishment districts with statutory authority to manage groundwater pursuant to their principal act, and any interested party.

(4) The general permit shall include language that provides for the modification of the terms and conditions of the general permit if a regulatory or statutory change occurs that affects the application of the general permit or as necessary to ensure protection of beneficial uses.

(b) The state board shall establish a reasonable schedule of fees to reimburse the state board for the costs it incurs in implementing, developing, and administering this section.

(c) Following the adoption of the general permit pursuant to this section, an applicant may obtain coverage for a landscape irrigation use of recycled water by filing a notice of intent to be covered under the general permit and submitting the appropriate fee established pursuant to subdivision (b) to the state board.

(d) Coverage under the general permit adopted pursuant to this section is effective if all of the following apply:

(1) The applicant has submitted a completed application.

(2) The state board has determined that the applicant meets the eligibility criteria established pursuant to paragraph (2) of subdivision (a).

(3) The state board has made the application available for public review and comment for 30 days.

(4) The state board has consulted with the appropriate regional board.

(5) The executive officer of the state board approves the application.

(e) (1) Except as provided by modification of the general permit, a person eligible for coverage under the general permit pursuant to subdivision (d) is not required to become or remain subject to individual waste discharge requirements or water reclamation requirements.

(2) For a landscape irrigation use of recycled water, a person who is subject to general or individual waste discharge requirements prescribed pursuant to Section 13263 or 13377, or is subject to individual or master water reclamation requirements prescribed pursuant to Section 13523 or 13523.1, may apply for coverage under the general permit adopted pursuant to this section in lieu of remaining subject to requirements prescribed pursuant to those sections.

(f) (1) The state board shall designate an ombudsperson to coordinate and facilitate communication on recycled water, on the issuance of water reclamation requirements or waste discharge requirements, as applicable, pursuant to Section 13523 or 13523.1 or this section, and on the

promotion of water recycling while ensuring reasonable protection of water quality in accordance with applicable provisions of state and federal water quality law.

(2) The person appointed pursuant to paragraph (1) shall facilitate consultations between the state board and the regional boards relating to matters described in that paragraph.

CHAPTER 536

An act to add the heading of Article 1 (commencing with Section 2851) to, and to add and repeal Article 2 (commencing with Section 2860) of, Chapter 9 of Part 2 of Division 1 of, the Public Utilities Code, relating to solar energy.

[Approved by Governor October 12, 2007. Filed with Secretary of State October 12, 2007.]

The people of the State of California do enact as follows:

SECTION 1. The heading of Article 1 (commencing with Section 2851) is added to Chapter 9 of Part 2 of Division 1 of the Public Utilities Code, to read:

Article 1. Solar Energy Systems

SEC. 2. Article 2 (commencing with Section 2860) is added to Chapter 9 of Part 2 of Division 1 of the Public Utilities Code, to read:

Article 2. Solar Water Heating Systems

2860. This article shall be known, and may be cited, as the Solar Water Heating and Efficiency Act of 2007.

2861. As used in this article, the following terms have the following meanings:

(a) "Energy Commission" means the State Energy Resources Conservation and Development Commission.

(b) "Gas customer" includes both "core" and "noncore" customers, as those terms are used in Chapter 2.2 (commencing with Section 328) of Part 1, that receive retail end-use gas service within the service territory of a gas corporation.

(c) "kW_{th}" means the kilowatt thermal capacity of a solar water heating system, measured consistent with the standard established by the SRCC.

(d) "kWh_{th}" means kilowatthours thermal as measured by the number of kilowatts thermal generated, or displaced, in an hour.

(e) "Low-income residential housing" means either of the following:

(1) Residential housing financed with low-income housing tax credits, tax-exempt mortgage revenue bonds, general obligation bonds, or local, state, or federal loans or grants, and for which the rents of the occupants who are lower income households, as defined in Section 50079.5 of the Health and Safety Code, do not exceed those prescribed by deed restrictions or regulatory agreements pursuant to the terms of the financing or financial assistance.

(2) A residential complex in which at least 20 percent of the total units are sold or rented to lower income households, as defined in Section 50079.5 of the Health and Safety Code, and the housing units targeted for lower income households are subject to a deed restriction or affordability covenant with a public entity that ensures that the units will be available at an affordable housing cost meeting the requirements of Section 50052.5 of the Health and Safety Code, or at an affordable rent meeting the requirements of Section 50053 of the Health and Safety Code, for a period of not less than 30 years.

(f) "New Solar Homes Partnership" means the 10-year program, administered by the Energy Commission, encouraging solar energy systems in new home construction.

(g) "Solar heating collector" means a device that is used to collect or capture heat from the sun and that is generally, but need not be, located on a roof.

(h) "Solar water heating system" means a solar energy device that has the primary purpose of reducing demand for natural gas through water heating, space heating, or other methods of capturing energy from the sun to reduce natural gas consumption in a home, business, or any building receiving natural gas that is subject to the surcharge established pursuant to Section 2860, or exempt from the surcharge pursuant to subdivision (c) of Section 2863, and that meets or exceeds the eligibility criteria established pursuant to Section 2864. "Solar water heating systems" do not include solar pool heating systems.

(i) "SRCC" means the Solar Rating and Certification Corporation.

2862. The Legislature finds and declares all of the following:

(a) California is heavily dependent on natural gas, importing more than 80 percent of the natural gas it consumes.

(b) Rising worldwide demand for natural gas and a shrinking supply create rising and unstable prices that can harm California consumers and the economy.

(c) Natural gas is a fossil fuel and a major source of global warming pollution and the pollutants that cause air pollution, including smog.

(d) California's growing population and economy will put a strain on energy supplies and threaten the ability of the state to meet its global warming goals unless specific steps are taken to reduce demand and generate energy cleanly and efficiently.

(e) Water heating for domestic and industrial use relies almost entirely on natural gas and accounts for a significant percentage of the state's natural gas consumption.

(f) Solar water heating systems represent the largest untapped natural gas saving potential remaining in California.

(g) In addition to financial and energy savings, solar water heating systems can help protect against future gas and electricity shortages and reduce our dependence on foreign sources of energy.

(h) Solar water heating systems can also help preserve the environment and protect public health by reducing air pollution, including carbon dioxide, a leading global warming gas, and nitrogen oxide, a precursor to smog.

(i) Growing demand for these technologies will create jobs in California as well as promote greater energy independence, protect consumers from rising energy costs and result in cleaner air.

(j) It is in the interest of the State of California to promote solar water heating systems and other technologies that directly reduce demand for natural gas in homes and businesses.

(k) It is the intent of the Legislature to build a mainstream market for solar water heating systems that directly reduces demand for natural gas in homes, businesses, and government buildings. Toward that end, it is the goal of this article to install at least 200,000 solar water heating systems on homes, businesses, and government buildings throughout the state by 2017, thereby lowering prices and creating a self-sufficient market that will sustain itself beyond the life of this program.

(*l*) It is the intent of the Legislature that the solar water heating system incentives created by the act should be a cost-effective investment by gas customers. Gas customers will recoup the cost of their investment through lower prices as a result of avoiding purchases of natural gas, and benefit from additional system stability and pollution reduction benefits.

2863. (a) The commission shall evaluate the data available from the Solar Water Heating Pilot Project conducted by the California Center for Sustainable Energy. If, after a public hearing, the commission

determines that a solar water heating program is cost effective for ratepayers and in the public interest, the commission shall do all of the following:

(1) Design and implement a program applicable to the service territories of a gas corporation, to achieve the goal of the Legislature to promote the installation of 200,000 solar water heating systems in homes and businesses throughout the state by 2017.

(2) The program shall be administered by gas corporations or third-party administrators, as determined by the commission, and subject to the supervision of the commission.

(3) The commission shall coordinate the program with the Energy Commission's New Solar Homes Partnership to achieve the goal of building zero-energy homes.

(b) (1) The commission shall fund the program through the use of a surcharge applied to gas customers based upon the amount of natural gas consumed. The surcharge shall be in addition to any other charges for natural gas sold or transported for consumption in this state.

(2) The commission shall impose the surcharge at a level that is necessary to meet the goal of installing 200,000 solar water heating systems, or the equivalent output of 200,000 solar water heating systems, on homes and businesses in California by 2017. Funding for the program established by this article shall not, for the collective service territories of all gas corporations, exceed two hundred fifty million dollars ($250,000,000) over the course of the 10-year program.

(3) The commission shall annually establish a surcharge rate for each class of gas customers. Any gas customer participating in the California Alternate Rates for Energy (CARE) or Family Electric Rate Assistance (FERA) programs shall be exempt from paying any surcharge imposed to fund the program designed and implemented pursuant to this article.

(4) Any surcharge imposed to fund the program designed and implemented pursuant to this article shall not be imposed upon the portion of any gas customer's procurement of natural gas that is used or employed for a purpose that Section 896 excludes from being categorized as the consumption of natural gas.

(5) The gas corporation or other person or entity providing revenue cycle services, as defined in Section 328.1, shall be responsible for collecting the surcharge.

(c) Funds shall be allocated for the benefit of gas customers to promote utilization of solar water heating systems.

(d) In designing and implementing the program required by this article, no moneys shall be diverted from any existing programs for low-income ratepayers or cost-effective energy efficiency programs.

2864. (a) The commission, in consultation with the Energy Commission and interested members of the public, shall establish eligibility criteria for solar water heating systems receiving gas customer funded incentives pursuant to this article. The criteria should specify and include all of the following:

(1) Design, installation, and energy output or displacement standards. To be eligible for rebate funding, a residential solar water heating system shall, at a minimum, have a SRCC OG-300 Solar Water Heating System Certification. Solar collectors used in systems for multifamily residential, commercial, or industrial water heating shall, at a minimum, have a SRCC OG-100 Solar Water Heating System Certification.

(2) Require that solar water heating system components are new and unused, and have not previously been placed in service in any other location or for any other application.

(3) Require that solar water heating collectors have a warranty of not less than 10 years to protect against defects and undue degradation.

(4) Require that solar water heating systems are in buildings connected to a natural gas utility's distribution system within the state.

(5) Require that solar water heating systems have meters or other kWh_{th} measuring devices in place to monitor and measure the system's performance and the quantity of energy generated or displaced by the system. The criteria shall require meters for systems with a capacity for displacing over 30 kW_{th}. The criteria may require meters for systems with a capacity of 30 kW_{th} or smaller.

(6) Require that solar water heating systems are installed in conformity with the manufacturer's specifications and all applicable codes and standards.

(b) No gas customer funded incentives shall be made for a solar water heating system that does not meet the eligibility criteria.

2865. (a) The commission shall establish conditions on gas customer funded incentives pursuant to this article. The conditions shall require both of the following:

(1) Appropriate siting and high-quality installation of the solar water heating system based on installation guidelines that maximize the performance of the system and prevent qualified systems from being inefficiently or inappropriately installed. The conditions shall not impact housing designs or densities presently authorized by a city, county, or city and county. The goal of this paragraph is to achieve efficient installation of solar water heating systems and promote the greatest energy production or displacement per gas customer dollar.

(2) Appropriate energy efficiency improvements in the new or existing home or commercial structure where the solar hot water system is installed.

(b) The commission shall set rating standards for equipment, components, and systems to ensure reasonable performance and shall develop standards that provide for compliance with the minimum ratings.

2866. (a) The commission shall provide not less than 10 percent of the overall funds for installation of solar water heating systems on low-income residential housing.

(b) The commission may establish a grant program or a revolving loan or loan guarantee program for low-income residential housing consistent with the requirements of Chapter 5.3 (commencing with Section 25425) of Division 15 of the Public Resources Code. All loans outstanding as of August 1, 2018, shall continue to be repaid in a manner that is consistent with the terms and conditions of the program adopted and implemented by the commission pursuant to this subdivision, until repaid in full.

(c) The commission may extend eligibility for funding pursuant to this section to include residential housing occupied by ratepayers participating in a commission approved and supervised gas corporation Low-Income Energy Efficiency (LIEE) program and who either:

(1) Occupy a single-family home.

(2) Occupy at least 50 percent of all units in a multifamily dwelling structure.

(d) The commission shall ensure that lower income households, as defined in Section 50079.5 of the Health and Safety Code, and, if the commission expands the program pursuant to subdivision (c), ratepayers participating in a LIEE program, that receive gas service at residential housing with a solar water heating system receiving incentives pursuant to subdivision (a), benefit from the installation of the solar water heating systems through reduced or lowered energy costs.

(e) No later than January 1, 2010, the commission shall do all of the following to implement the requirements of this section:

(1) Maximize incentives to properties that are committed to continuously serving the needs of lower income households, as defined in Section 50079.5 of the Health and Safety Code, and, if the commission expands the program pursuant to subdivision (c), ratepayers participating in a LIEE program.

(2) Establish conditions on the installation of solar water heating systems that ensure properties on which solar water heating systems are installed under subdivision (a) remain low-income residential properties for at least 10 years from the time of installation, including property ownership restrictions and income rental protections, and appropriate enforcement of these conditions.

(f) All moneys set aside for the purpose of funding the installation of solar water heating systems on low-income residential housing that are

unexpended and unencumbered on August 1, 2018, and all moneys thereafter repaid pursuant to subdivision (b), except to the extent that those moneys are encumbered pursuant to this section, shall be utilized to augment cost-effective energy efficiency measures in low-income residential housing that benefit ratepayers.

2867. (a) The rebates provided through this program shall decline over time. They shall be structured so as to drive down the cost of the solar water heating technologies, and be paid out on a performance-based incentive basis so that incentives are earned based on the actual energy savings, or on predicted energy savings as established by the commission.

(b) The commission shall consider federal tax credits and other incentives available for this technology when determining the appropriate rebate amount.

(c) The commission shall consider the impact of rebates for solar water heating systems pursuant to this article on existing incentive programs for energy efficiency technology.

(d) In coordination with the commission, the Energy Commission shall consider, when appropriate, coupling rebates for solar water heating systems with complementary energy efficiency technologies, including, but not limited to, efficient hot water heating tanks and tankless or on demand hot water systems that can be installed in addition to the solar water heating system.

2867.1. Not later than July 1, 2010, the commission shall report to the Legislature as to the effectiveness of the program and make recommendations as to any changes that should be made to the program. This report shall include justification for the size of the rebate program in terms of total available incentive moneys as well as the anticipated benefits of the program in its entirety. To facilitate the understanding of how solar water heating systems compare with other clean energy and energy efficiency technologies, all documents related to and rebates provided by this program shall be measured in both kWh_{th} and therms of natural gas saved.

2867.2. Except for the Solar Water Heating Pilot Program in San Diego, solar water heating technologies shall not be eligible for California Solar Initiative (CSI) funds, pursuant to Section 2851, unless they also displace electricity, in which case only the electricity displacing portion of the technology may be eligible under the CSI program, as determined by the commission.

2867.3. In order to further the state goal of encouraging the installation of 200,000 solar water heaters by 2017, the governing body of each publicly owned utility providing gas service to retail end-use gas customers shall, after a public proceeding, adopt, implement, and

finance a solar water heating system incentive program that does all the following:

(a) Ensures that any solar water heating system receiving monetary incentives complies with eligibility criteria adopted by the governing body. The eligibility criteria shall include those elements contained in paragraphs (1) to (6), inclusive, of subdivision (a) of Section 2864.

(b) Includes minimum ratings and standards for equipment, components, and systems to ensure reasonable performance and compliance with the minimum ratings and standards.

(c) Includes an element that addresses the installation of solar water heating systems on low-income residential housing. If deemed appropriate in consultation with the California Tax Credit Allocation Committee, the governing board may establish a grant program or a revolving loan or loan guarantee program for low-income residential housing consistent with the requirements of Chapter 5.3 (commencing with Section 25425) of Division 15 of the Public Resources Code.

2867.4. This article shall remain in effect only until August 1, 2018, and as of that date is repealed, unless a later enacted statute, that is enacted before August 1, 2018, deletes or extends that date.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

CHAPTER 537

An act to amend Section 13553 of the Water Code, relating to water.

[Approved by Governor October 12, 2007. Filed with Secretary of State October 12, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 13553 of the Water Code is amended to read:

13553. (a) The Legislature hereby finds and declares that the use of potable domestic water for toilet and urinal flushing in structures is a waste or an unreasonable use of water within the meaning of Section 2 of Article X of the California Constitution if recycled water, for these uses, is available to the user and meets the requirements set forth in

Section 13550, as determined by the state board after notice and a hearing.

(b) The state board may require a public agency or person subject to this section to furnish any information that may be relevant to making the determination required in subdivision (a).

(c) For the purposes of this section and Section 13554, "structure" or "structures" means commercial, retail, and office buildings, theaters, auditoriums, condominium projects, schools, hotels, apartments, barracks, dormitories, jails, prisons, and reformatories, and other structures as determined by the State Department of Public Health.

(d) Recycled water may be used in condominium projects, as defined in Section 1351 of the Civil Code, subject to all of the following conditions:

(1) Prior to the indoor use of recycled water in any condominium project, the agency delivering the recycled water to the condominium project shall file a report with the appropriate regional water quality control board and receive written approval of the report from the State Department of Public Health. The report shall be consistent with the provisions of Title 22 of the California Code of Regulations generally applicable to dual-plumbed structures and shall include all the following:

(A) That potable water service to each condominium project will be provided with a backflow protection device approved by the State Department of Public Health to protect the agency's public water system, as defined in Section 116275 of the Health and Safety Code. The backflow protection device approved by the State Department of Public Health shall be inspected and tested annually by a person certified in the inspection of backflow prevention devices.

(B) That any plumbing modifications in the condominium unit or any physical alteration of the structure will be done in compliance with state and local plumbing codes.

(C) That each condominium project will be tested by the recycled water agency or the responsible local agency at least once every four years to ensure that there are no indications of a possible cross connection between the condominium's potable and nonpotable systems.

(D) That recycled water lines will be color coded consistent with current statutes and regulations.

(2) The recycled water agency or the responsible local agency shall maintain records of all tests and annual inspections conducted.

(3) The condominium's declaration, as defined in Section 1351 of the Civil Code, shall provide that the laws and regulations governing recycled water apply, shall permit no exceptions to those laws and regulations, shall incorporate the report described in paragraph (1), and shall contain the following statement:

"NOTICE OF USE OF RECYCLED WATER

This property is approved by the State Department of Public Health for the use of recycled water for toilet and urinal flushing. This water is not potable, is not suitable for indoor purposes other than toilet and urinal flushing purposes, and requires dual plumbing. Alterations and modifications to the plumbing system require a permit and are prohibited without first consulting with the appropriate local building code enforcement agency and your property management company or homeowners' association to ensure that the recycled water is not mixed with the drinking water."

(e) The State Department of Public Health may adopt regulations as necessary to assist in the implementation of this section.

(f) This section shall only apply to condominium projects that are created, within the meaning of Section 1352 of the Civil Code, on or after January 1, 2008.

(g) Nothing in this section or Section 13554 applies to a pilot program adopted pursuant to Section 13553.1.

CHAPTER 538

An act to add Section 52.7 to the Civil Code, relating to identification devices.

[Approved by Governor October 12, 2007. Filed with Secretary of State October 12, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 52.7 is added to the Civil Code, to read:

52.7. (a) Except as provided in subdivision (g), a person shall not require, coerce, or compel any other individual to undergo the subcutaneous implanting of an identification device.

(b) (1) Any person who violates subdivision (a) may be assessed an initial civil penalty of no more than ten thousand dollars ($10,000), and no more than one thousand dollars ($1,000) for each day the violation continues until the deficiency is corrected. That civil penalty may be assessed and recovered in a civil action brought in any court of competent jurisdiction. The court may also grant a prevailing plaintiff reasonable

attorney's fees and litigation costs, including, but not limited to, expert witness fees and expenses as part of the costs.

(2) A person who is implanted with a subcutaneous identification device in violation of subdivision (a) may bring a civil action for actual damages, compensatory damages, punitive damages, injunctive relief, any combination of those, or any other appropriate relief.

(3) Additionally, punitive damages may also be awarded upon proof of the defendant's malice, oppression, fraud, or duress in requiring, coercing, or compelling the plaintiff to undergo the subcutaneous implanting of an identification device.

(c) (1) An action brought pursuant to this section shall be commenced within three years of the date upon which the identification device was implanted.

(2) If the victim was a dependent adult or minor when the implantation occurred, actions brought pursuant to this section shall be commenced within three years after the date the plaintiff, or his or her guardian or parent, discovered or reasonably should have discovered the implant, or within eight years after the plaintiff attains the age of majority, whichever date occurs later.

(3) The statute of limitations shall not run against a dependent adult or minor plaintiff simply because a guardian ad litem has been appointed. A guardian ad litem's failure to bring a plaintiff's action within the applicable limitation period will not prejudice the plaintiff's right to do so.

(4) A defendant is estopped to assert a defense of the statute of limitations when the expiration of the statute is due to conduct by the defendant inducing the plaintiff to delay the filing of the action, or due to threats made by the defendant causing duress upon the plaintiff.

(d) Any restitution paid by the defendant to the victim shall be credited against any judgment, award, or settlement obtained pursuant to this section. Any judgment, award, or settlement obtained pursuant to an action under this section shall be subject to the provisions of Section 13963 of the Government Code.

(e) The provisions of this section shall be liberally construed so as to protect privacy and bodily integrity.

(f) Actions brought pursuant to this section are independent of any other actions, remedies, or procedures that may be available to an aggrieved party pursuant to any other law.

(g) This section shall not in any way modify existing statutory or case law regarding the rights of parents or guardians, the rights of children or minors, or the rights of dependent adults.

(h) For purposes of this section:

(1) "Identification device" means any item, application, or product that is passively or actively capable of transmitting personal information, including, but not limited to, devices using radio frequency technology.

(2) "Person" means an individual, business association, partnership, limited partnership, corporation, limited liability company, trust, estate, cooperative association, or other entity.

(3) "Personal information" includes any of the following data elements to the extent they are used alone or in conjunction with any other information used to identify an individual:

(A) First or last name.

(B) Address.

(C) Telephone number.

(D) E-mail, Internet Protocol, or Web site address.

(E) Date of birth.

(F) Driver's license number or California identification card number.

(G) Any unique personal identifier number contained or encoded on a driver's license or identification card issued pursuant to Section 13000 of the Vehicle Code.

(H) Bank, credit card, or other financial institution account number.

(I) Any unique personal identifier contained or encoded on a health insurance, health benefit, or benefit card or record issued in conjunction with any government-supported aid program.

(J) Religion.

(K) Ethnicity or nationality.

(L) Photograph.

(M) Fingerprint or other biometric identifier.

(N) Social security number.

(O) Any unique personal identifier.

(4) "Require, coerce, or compel" includes physical violence, threat, intimidation, retaliation, the conditioning of any private or public benefit or care on consent to implantation, including employment, promotion, or other employment benefit, or by any means that causes a reasonable person of ordinary susceptibilities to acquiesce to implantation when he or she otherwise would not.

(5) "Subcutaneous" means existing, performed, or introduced under or on the skin.

CHAPTER 539

An act to amend and repeal Section 743.1 of the Public Utilities Code, relating to public utilities.

[Approved by Governor October 12, 2007. Filed with
Secretary of State October 12, 2007.]

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) Successful implementation of the California Global Warming Solutions Act of 2006 (Division 25.5 (commencing with Section 38500) of the Health and Safety Code) will require substantial reductions in the emissions of greenhouse gases associated with the generation of electricity.

(b) Demand for electricity continues to grow due to a number of factors, including increased use of air-conditioning for residential and commercial applications.

(c) The growth in electricity demand results in the continued operation of older, less efficient, and significantly more polluting generating facilities, and thereby threatens to undermine the state's efforts to obtain reductions in greenhouse gas emissions associated with the generation of electricity.

(d) The state experiences very large increases in electricity demand during relatively few hours each year, requiring the continued operation of older, more polluting generation facilities and potentially the addition of new gas-fired peaking plants to meet this peak demand.

(e) The expansion and increased use of demand response programs, particularly programs like interruptible or curtailable service, would allow the state to meet peak demand while avoiding the operation of some or all of the older, more polluting generation facilities.

(f) Electrical corporations subject to the jurisdiction of the Public Utilities Commission should be encouraged by the commission to expand participation in these demand response programs through incentives for participation that adequately reflect all the benefits associated with demand reduction, including reduced emissions of greenhouse gases and other environmental benefits.

SEC. 2. Section 743.1 of the Public Utilities Code is amended to read:

743.1. (a) Electrical corporations shall offer optional interruptible or curtailable service programs, using pricing incentives for participation in these programs. These pricing incentives shall be cost effective and may reflect the full range of costs avoided by the reductions in demand created by these programs, including the reduction in emissions of greenhouse gases and other pollutant emissions from generating facilities that would have been required to operate but for these demand reductions, to the extent that these avoided costs from reduction in emissions can

be quantified by the commission. The commission may determine these pricing incentives in a stand-alone proceeding or as part of a general rate case.

(b) The commission shall direct each public utility electrical corporation to continue its efforts to reduce the rates charged heavy industrial customers to a level competitive with other states, and to do so without shifting recovery of costs to other customer classes.

(c) This section shall remain in effect only until January 1, 2015, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2015, deletes or extends that date.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CHAPTER 540

An act to add Section 7026.11 to the Business and Professions Code, to amend Sections 18000, 18007, 18008, 18008.7, and 18028 of, and to amend the heading of Part 2 (commencing with Section 18000) of Division 13 of, the Health and Safety Code, relating to housing.

[Approved by Governor October 12, 2007. Filed with Secretary of State October 12, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 7026.11 is added to the Business and Professions Code, to read:

7026.11. Notwithstanding any other provision of law, the permissible scope of work for the General Manufactured Housing Contractor (C-47) license classification set forth in Section 832.47 of Division 8 of Title 16 of the California Code of Regulations shall include manufactured homes, as defined in Section 18007 of the Health and Safety Code, mobilehomes, as defined in Section 18008 of the Health and Safety Code, and multifamily manufactured homes, as defined in Section 18008.7 of the Health and Safety Code.

SEC. 2. The heading of Part 2 (commencing with Section 18000) of Division 13 of the Health and Safety Code is amended to read:

PART 2. MANUFACTURED HOUSING

SEC. 3. Section 18000 of the Health and Safety Code is amended to read:

18000. (a) This part shall be known and may be cited as the Manufactured Housing Act of 1980.

(b) The Legislature finds and declares all of the following:

(1) Manufactured housing, both in mobilehome parks or manufactured housing communities, and outside of those parks or communities, provides a safe and affordable housing option for many Californians.

(2) Confusion exists among consumers, enforcement agencies, lenders, and others in the housing industry regarding the difference between "manufactured housing" and "mobilehomes." All single-family factory-constructed housing built on or after June 15, 1976, that is in compliance with the standards of the United States Department of Housing and Urban Development promulgated under the federal National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. Sec. 5401 and following) are manufactured housing or manufactured homes, not "mobilehomes" and, as such, often are subject to additional benefits.

(3) Continued use of the term "mobilehome" in various statutes, as well as the implication that the terms are interchangeable, exacerbates the confusion between the two products and deters affordable financing, discourages use in certain localities, and perpetuates incorrect perceptions as to codes and standards.

(4) The changes made by the act adding this subdivision to clarify the meaning of the terms "mobilehomes" and "manufactured homes" are not intended to effect any substantive change with respect to the treatment of those housing products or to the consumer protections provided for those housing products.

SEC. 4. Section 18007 of the Health and Safety Code is amended to read:

18007. (a) "Manufactured home," for the purposes of this part, means a structure that was constructed on or after June 15, 1976, is transportable in one or more sections, is eight body feet or more in width, or 40 body feet or more in length, in the traveling mode, or, when erected on site, is 320 or more square feet, is built on a permanent chassis and designed to be used as a single-family dwelling with or without a foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein. "Manufactured

home" includes any structure that meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification and complies with the standards established under the National Manufactured Housing Construction and Safety Act of 1974 (42 U.S.C., Sec. 5401, and following).

(b) Notwithstanding any other provision of law, if a codified provision of state law uses the term "manufactured home," and it clearly appears from the context that the term "manufactured home" should apply only to manufactured homes, as defined under subdivision (a), the codified provision shall apply only to those manufactured homes. If any codified provision of state law, by its context, requires that the term applies to manufactured homes or mobilehomes without regard to the date of construction, the codified provision shall apply to both manufactured homes, as defined under subdivision (a), and mobilehomes as defined under Section 18008.

SEC. 5. Section 18008 of the Health and Safety Code is amended to read:

18008. (a) "Mobilehome," for the purposes of this part, means a structure that was constructed prior to June 15, 1976, is transportable in one or more sections, is eight body feet or more in width, or 40 body feet or more in length, in the traveling mode, or, when erected onsite, is 320 or more square feet, is built on a permanent chassis and designed to be used as a single-family dwelling with or without a foundation system when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein. "Mobilehome" includes any structure that meets all the requirements of this paragraph and complies with the state standards for mobilehomes in effect at the time of construction. "Mobilehome" does not include a commercial modular, as defined in Section 18001.8, factory-built housing, as defined in Section 19971, a manufactured home, as defined in Section 18007, a multifamily manufactured home, as defined in Section 18008.7, or a recreational vehicle, as defined in Section 18010.

(b) Notwithstanding any other provision of law, if a codified provision of state law uses the term "mobilehome," and it clearly appears from the context that the term "mobilehome" should apply only to mobilehomes, as defined under subdivision (a), the codified provision shall apply only to those mobilehomes. If any codified provision of state law, by its context, requires that the term applies to mobilehomes or manufactured homes without regard to the date of construction, the codified provision shall apply to both mobilehomes, as defined under subdivision (a), and manufactured homes, as defined under Section 18007.

SEC. 6. Section 18008.7 of the Health and Safety Code is amended to read:

18008.7. (a) "Multifamily manufactured home," for the purposes of this part, means either of the following:

(1) A structure transportable under permit in one or more sections, designed and equipped to contain not more than two dwelling units, a dormitory, or an efficiency unit, to be used either with a support system pursuant to Section 18613 or a foundation system pursuant to subdivision (a) of Section 18551.

(2) A structure transportable under permit in one or more sections, designed to be used with a foundation system for three or more dwelling units, as defined by Section 18003.3.

(b) Multifamily manufactured homes shall be constructed in compliance with applicable department regulations. The egress and fire separation requirements of Title 24 of the California Code of Regulations applicable to dormitories, hotels, apartment houses, and structures that contain two dwelling units shall also be applicable to all multifamily manufactured homes constructed for those purposes. The accessibility and adaptability requirements of Title 24 of the California Code of Regulations applicable to covered multifamily dwelling units shall also be applicable to multifamily manufactured homes containing three or more dwelling units.

(c) Notwithstanding any other provision of law, all provisions of law that apply to manufactured homes shall apply equally to multifamily manufactured homes, except as provided in this section.

(d) For purposes of this section:

(1) "Dormitory" means a room or rooms inhabited for the purposes of temporary residence by two or more persons.

(2) "Efficiency unit" has the same meaning as defined in Section 17958.1.

(3) "Multiunit manufactured housing" has the same meaning as "multifamily manufactured home," as that term is defined in this section.

SEC. 7. Section 18028 of the Health and Safety Code is amended to read:

18028. (a) The department may adopt regulations regarding the construction of commercial modulars and special purpose commercial modulars, other than mobile food facilities subject to Article 11 (commencing with Section 114250) of Chapter 4 of Part 7 of Division 104, and of multifamily manufactured homes, manufactured homes, and mobilehomes that are not subject to the National Manufactured Housing Construction and Safety Act of 1974 (42 U.S.C. Sec. 5401 et seq.) that the department determines are reasonably necessary to protect the health and safety of the occupants and the public.

(b) Requirements for the construction, alteration, or conversion of commercial modulars shall be those contained, with reasonably necessary additions or deletions, as adopted by department regulations, in all of the following:

(1) The 1991 Edition of the Uniform Building Code, published by the International Conference of Building Officials.

(2) The 1993 Edition of the National Electrical Code, published by the National Fire Protection Association.

(3) The 1991 Edition of the Uniform Mechanical Code, published jointly by the International Conference of Building Officials and the International Association of Plumbing and Mechanical Officials.

(4) The 1991 Edition of the Uniform Plumbing Code, published by the International Association of Plumbing and Mechanical Officials.

(c) (1) The department shall, on or after January 1, 2008, adopt regulations for the construction, alteration, or conversion of commercial modulars based on Parts 2, 3, 4, 5, and 6 of the California Building Standards Code, as contained in Title 24 of the California Code of Regulations, with appropriate additions, deletions, and other implementing provisions. The regulations adopted under this paragraph shall be placed within Title 25 of the California Code of Regulations.

(2) The requirements promulgated by the department pursuant to this section shall only apply to the construction, alteration, and conversion of commercial modulars, and not to the use or operation of commercial modulars.

(d) No municipality shall prohibit the use of commercial modulars that bear a valid insignia, based on the date the insignia was issued.

CHAPTER 541

An act to amend Sections 5090.02, 5090.15, 5090.24, 5090.32, 5090.53, 5090.70, 5091.15, and 5091.25 of, to repeal Sections 5090.23, 5090.51, 5090.63, and 5090.64 of, and to repeal and add Sections 5090.34, 5090.50, and 5090.61 of, the Public Resources Code, to amend Section 8352.8 of, to repeal Section 8352.7 of, and to repeal and add Section 8352.6 of, the Revenue and Taxation Code, and to amend Sections 38165 and 38301 of, and to amend and repeal Section 38225 of, the Vehicle Code, relating to off-highway recreation.

[Approved by Governor October 12, 2007. Filed with Secretary of State October 12, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 5090.02 of the Public Resources Code is amended to read:

5090.02. (a) The Legislature finds all of the following:

(1) Off-highway motor vehicles are enjoying an ever-increasing popularity in California.

(2) Off-highway recreation includes both motorized recreation and motorized off-highway access to nonmotorized recreation activities.

(3) The indiscriminate and uncontrolled use of those vehicles may have a deleterious impact on the environment, wildlife habitats, native wildlife, and native flora.

(b) The Legislature hereby declares that effectively managed areas and adequate facilities for the use of off-highway vehicles and conservation and enforcement are essential for ecologically balanced recreation.

(c) Accordingly, it is the intent of the Legislature that:

(1) Existing off-highway motor vehicle recreational areas, facilities, and opportunities should be expanded and managed in a manner consistent with this chapter, in particular to maintain sustained long-term use.

(2) New off-highway motor vehicle recreational areas, facilities, and opportunities should be provided and managed pursuant to this chapter in a manner that will sustain long-term use.

(3) The department should support both motorized recreation and motorized off-highway access to nonmotorized recreation.

(4) When areas or trails or portions thereof cannot be maintained to appropriate established standards for sustained long-term use, they should be closed to use and repaired, to prevent accelerated erosion. Those areas should remain closed until they can be managed within the soil conservation standard or should be closed and restored.

(5) Prompt and effective implementation of the Off-Highway Motor Vehicle Recreation Program by the department and the Division of Off-Highway Motor Vehicle Recreation should have an equal priority among other programs in the department.

(6) Off-highway motor vehicle recreation should be managed in accordance with this chapter through financial assistance to local governments and joint undertakings with agencies of the United States and with federally recognized Native American tribes.

SEC. 2. Section 5090.15 of the Public Resources Code is amended to read:

5090.15. (a) There is in the department the Off-Highway Motor Vehicle Recreation Commission, consisting of nine members, five of

whom shall be appointed by the Governor and subject to Senate confirmation, two of whom shall be appointed by the Senate Committee on Rules, and two of whom shall be appointed by the Speaker of the Assembly.

(b) In order to be appointed to the commission, a nominee shall represent one or more of the following groups:

(1) Off-highway vehicle recreation interests.

(2) Biological or soil scientists.

(3) Groups or associations of predominantly rural landowners.

(4) Law enforcement.

(5) Environmental protection organizations.

(6) Nonmotorized recreation interests.

It is the intent of the Legislature that appointees to the commission represent all of the groups delineated in paragraphs (1) to (6), inclusive, to the extent possible.

(c) Whenever a reference is made to the State Park and Recreation Commission pertaining to a duty, power, purpose, responsibility, or jurisdiction of the State Park and Recreation Commission with respect to the state vehicular recreation areas, as established by this chapter, it is a reference to, and means, the Off-Highway Motor Vehicle Recreation Commission.

SEC. 3. Section 5090.23 of the Public Resources Code is repealed.

SEC. 4. Section 5090.24 of the Public Resources Code is amended to read:

5090.24. The commission has the following particular duties and responsibilities:

(a) Be fully informed regarding all governmental activities affecting the program.

(b) Meet at least four times per year at various locations throughout the state to receive comments on the implementation of the program. Establish an annual calendar of proposed meetings at the beginning of each calendar year. The meetings shall include a public meeting, before the beginning of each grant program cycle, to collect public input concerning the program, recommendations for program improvements, and specific project needs for the system.

(c) Hold a public hearing to receive public comment regarding any proposed substantial acquisition or development project at a location in close geographic proximity to the project, unless a hearing consistent with federal law or regulation has already been held regarding the project.

(d) Consider, upon the request of any owner or tenant, whose property is in the vicinity of any land in the system, any alleged adverse impacts occurring on that person's property from the operation of off-highway motor vehicles and recommend to the division suitable measures for the

prevention of any adverse impact determined by the commission to be occurring, and suitable measures for the restoration of adversely impacted property.

(e) Review and comment annually to the director on the proposed budget of expenditures from the fund.

(f) Review all plans for new and expanded local and regional vehicle recreation areas that have applied for grant funds.

(g) Review and comment on the strategic plan developed by the division pursuant to Section 5090.32.

(h) Prepare and submit a program report to the Governor, the Assembly Water, Parks, and Wildlife Committee, the Senate Committee on Natural Resources and Water, and the Committee on Appropriations of each house on or before January 1, 2011, and every three years thereafter. The report shall be adopted by the commission after discussing the contents during two or more public meetings. The report shall address the status of the program and off-highway motor vehicle recreation, including all of the following:

(1) The results of the strategic planning process completed pursuant to subdivision (*l*) of Section 5090.32.

(2) The condition of natural and cultural resources of areas and trails receiving state off-highway motor vehicle funds and the resolution of conflicts of use in those areas and trails.

(3) The status and accomplishments of funds appropriated for restoration pursuant to paragraph (2) of subdivision (b) of Section 5090.50.

(4) A summary of resource monitoring data compiled and restoration work completed.

(5) Actions taken by the division and department since the last program report to discourage and decrease trespass of off-highway motor vehicles on private property.

(6) Other relevant program-related environmental issues that have arisen since the last program report.

SEC. 5. Section 5090.32 of the Public Resources Code is amended to read:

5090.32. The division has the following duties and responsibilities:

(a) Planning, acquisition, development, conservation, and restoration of lands in the state vehicular recreation areas.

(b) Direct management, maintenance, administration, and operation of lands in the state vehicular recreation areas.

(c) Provide for law enforcement and appropriate public safety activities.

(d) Implementation of all aspects of the program.

(e) Ensure program compliance with the California Environmental Quality Act (Division 13 (commencing with Section 21000)) in state vehicular recreation areas.

(f) Provide staff assistance to the commission.

(g) Prepare and implement plans for lands in, or proposed to be included in, state vehicular recreation areas, including new state vehicular recreation areas. However, a plan shall not be prepared in any instance specified in subdivision (c) of Section 5002.2.

(h) Conduct, or cause to be conducted, surveys, and prepare, or cause to be prepared, studies that are necessary or desirable for implementing the program.

(i) Recruit and utilize volunteers to further the objectives of the program.

(j) Prepare and coordinate safety and education programs.

(k) Provide for the enforcement of Division 16.5 (commencing with Section 38000) of the Vehicle Code and other laws regulating the use or equipment of off-highway motor vehicles in all areas acquired, maintained, or operated by funds from the fund; however, the Department of the California Highway Patrol shall have responsibility for enforcement on highways.

(*l*) Complete by January 1, 2009, a strategic planning process that will identify future off-highway motor vehicle recreational needs, including, but not limited to, potential off-highway motor vehicle parks in urban areas to properly direct vehicle operators away from illegal or environmentally sensitive areas. This strategic planning process shall take into consideration, at a minimum, environmental constraints, infrastructure requirements, demographic limitations, and local, state, and federal land use planning processes. The strategic plan shall be reviewed by the commission and updated periodically.

SEC. 6. Section 5090.34 of the Public Resources Code is repealed.

SEC. 7. Section 5090.34 is added to the Public Resources Code, to read:

5090.34. (a) In cooperation with the commission, the division shall make available on the division's Internet Web site information regarding off-highway motor vehicle recreation opportunities, pertinent laws and regulations, and responsible use of the system. At a minimum, the Web site shall include the following:

(1) The text of laws and regulations relating to the program and operation of off-highway vehicles.

(2) A statewide map and regional maps of federal, state, and local off-highway vehicle recreation areas and facilities in the state, including links to maps of federal off-highway vehicle routes resulting from the route designation process.

(3) Information concerning safety, education, and trail etiquette.

(4) Information to prevent trespass, damage to public and private property, and damage to natural resources, including penalties and liability associated with trespass and damage caused.

(b) The division shall create a guidebook of federal, state, and local off-highway vehicle recreation opportunities that includes contact information where current specific maps and information for each facility can be located. Contact information may include Web site addresses, telephone numbers, and addresses of offices where maps can be accessed. The guidebook shall also include the address of the Web site where the information in subdivision (a) may be found.

(c) The division shall work with retailers of off-highway motor vehicles and off-highway recreation associations to distribute the guidebook developed under subdivision (b) and to increase awareness of the resources available on the division's Internet Web site.

SEC. 8. Section 5090.50 of the Public Resources Code is repealed.

SEC. 9. Section 5090.50 is added to the Public Resources Code, to read:

5090.50. (a) The division shall develop and implement a grant and cooperative agreement program to support the planning, acquisition, development, maintenance, administration, operation, enforcement, restoration, and conservation of trails, trailheads, areas, and other facilities associated with the use of off-highway motor vehicles, and programs involving off-highway motor vehicle safety or education.

(b) When appropriated by the Legislature for grants and cooperative agreements, available funds shall be awarded in accordance with the following categories:

(1) Operation and maintenance.

(A) Fifty percent of the funds appropriated by the Legislature pursuant to subdivision (a) of Section 5090.61 shall be expended solely for grants and cooperative agreements for the acquisition, maintenance, operation, planning, development, or conservation of trails and facilities associated with the use of off-highway motor vehicles for recreation or motorized access to nonmotorized recreation.

(B) Guidelines developed to implement this paragraph, pursuant to subdivision (d), shall at a minimum:

(i) Give preference to applications that sustain existing off-highway motor vehicle recreation opportunities.

(ii) Give additional consideration to applications that improve facilities that provide motorized access to nonmotorized recreation opportunities.

(C) Applications that would affect lands identified as inventoried roadless areas by the Forest Service of the United States Department of

Agriculture are eligible for cooperative agreements under paragraph (1) if the application is for a project that does any of the following:

(i) Realigns a forest system road or trail to prevent irreparable resource damage that arises from the design, location, use, or deterioration of a classified route and that cannot be mitigated by route maintenance.

(ii) Reconstructs a national forest system road or trail to implement a route safety improvement project on a classified route determined to be hazardous on the basis of accident experience or accident potential on that route.

(iii) Maintains a road or trail that is included in the National Forest Road and Trail System on or before January 1, 2009.

(D) Any unencumbered funds under this paragraph shall only be used in future grant cycles for purposes consistent with this paragraph.

(2) Restoration.

(A) Twenty-five percent of the funds appropriated by the Legislature pursuant to subdivision (a) of Section 5090.61 shall be expended solely for grants and cooperative agreements for projects that provide ecological restoration or repair to habitat damaged by either legal or illegal off-highway motor vehicle use.

(B) The division shall develop and implement, in consultation with the Wildlife Conservation Board, a competitive grant and cooperative agreement program which shall be administered in accordance with this paragraph.

(C) Funds identified in this paragraph shall be available for grants and cooperative agreements for projects that provide ecological restoration or repair to habitat damaged by both legal and illegal off-highway motor vehicle use.

(D) Eligible projects include:

(i) Removal of a road or trail or restoration of an area associated with the rerouting and subsequent closure of a designated road or trail.

(ii) Removal of roads or trails and the restoration of damaged habitats in any area that is not designated for motorized vehicle use.

(iii) The removal of closed roads or trails, or a portion of a closed road or trail, that will help to prevent off-highway motor vehicle access to closed areas.

(iv) Scientific and cultural studies regarding the impact of off-highway motor vehicle recreation not otherwise required by state or federal laws.

(v) Planning to identify appropriate restoration techniques, strategies, and project implementation, including planning associated with environmental review.

(vi) Restoration projects that generally improve and restore the function of natural resource systems damaged by motorized activities.

(E) Eligible applicants include local, state, and federal entities, Native American tribes, educational institutions, and eligible nonprofit organizations.

(F) Guidelines developed to implement this paragraph shall at a minimum do all of the following:

(i) Give additional consideration to applications for projects that will restore areas that have the potential for the most significant environmental damage.

(ii) Guarantee that no grant will be used for the development or maintenance of trails for motorized use.

(G) Any unencumbered funds under this paragraph shall be used only in future grant cycles for purposes consistent with this paragraph.

(3) Law enforcement.

(A) Twenty percent of the funds appropriated by the Legislature pursuant to subdivision (a) of Section 5090.61 shall be available for law enforcement grants and cooperative agreements and shall be allocated to local and federal law enforcement entities for personnel and related equipment. The amount of the grant or cooperative agreement shall be proportionate to the off-highway motor vehicle enforcement needs under each entity's jurisdiction.

(B) The division shall develop a method to determine the law enforcement needs for each applicant. Forty percent of law enforcement grants and cooperative agreements shall be given to local law enforcement entities, 30 percent to units of the United States Bureau of Land Management, and 30 percent to units of the United States Forest Service.

(C) The division shall develop eligibility guidelines for law enforcement projects. The guidelines, at a minimum, shall require the applicant to do all of the following:

(i) Specify formal and informal cooperation with other appropriate law enforcement entities, including any applicable federal entities.

(ii) Establish a policy on how violations of off-highway motor vehicle laws and regulations will be enforced on federal land, if the applicant is a local law enforcement entity.

(iii) Identify areas with high priority law enforcement needs because of public safety, cultural resources, and sensitive environmental habitats, including wilderness areas and areas of critical environmental concern.

(iv) Explain whether the applicant is recovering a portion of law enforcement costs directly associated with privately sponsored events where sponsors have obtained a local permit.

(v) Establish a public education program that includes information regarding safety programs offered in the area and how to report off-highway motor vehicle operation violations.

(vi) Specify how personnel is trained and educated regarding off-highway motor vehicle safety and resource and cultural protection.

(D) Notwithstanding subdivision (h), law enforcement entities that receive funds allocated pursuant to this paragraph shall be subject to a financial and performance audit at least once every five years. The audits may be conducted in a random order. As part of the audit, the department shall consider whether the law enforcement entity has spent the grant money in accordance with its application.

(4) Education and safety. Five percent of the funds appropriated by the Legislature pursuant to subdivision (a) of Section 5090.61 shall be available for grants and cooperative agreements that either provide comprehensive education that teaches off-highway motor vehicle safety, environmental responsibility, and respect for private property, or provide safety programs associated with off-highway motor vehicle recreation.

(c) Eligible grant and cooperative agreement applicants include:

(1) Cities, counties, and districts that have approval to apply for grant funds, in the form of a resolution from their governing body.

(2) State agencies for projects under paragraph (2) of subdivision (b).

(3) Agencies of the United States.

(4) Federally recognized Native American tribes.

(5) Education and nonprofit organizations for eligible projects described in subdivision (f).

(d) Guidelines developed to implement this program shall at a minimum do all of the following:

(1) Distribute grants and cooperative agreements on a competitive basis, except for law enforcement grants allocated in accordance with paragraph (3) of subdivision (b).

(2) Be developed with public input, including focus groups.

(3) Require applications to be in accordance with local or federal plans and the strategic plan for off-highway motor vehicle recreation prepared by the division.

(4) Require grant applicants to comply with the California Environmental Quality Act (Division 13 (commencing with Section 21000)). Applicants for cooperative agreements shall complete environmental review procedures that are at least comparable to those of the California Environmental Quality Act (Division 13 (commencing with Section 21000)).

(5) Require the applicant to agree to provide matching funds or the equivalent value of services or material used, in an amount not less than 25 percent of the total project cost.

(6) Require the applicant, if it is a city or county, to disclose how fees collected pursuant to Section 38230 of the Vehicle Code are being used and whether the use of these fees complements the applicant's project.

(7) Fund all eligible applications to the extent feasible.

(e) All grants and cooperative agreements involving ground disturbing activities shall be subject to the uniform application of soil and wildlife habitat protection standards specified in Section 5090.53.

(f) Grants may be awarded to educational institutions and nonprofit organizations. Eligible projects shall be limited to scientific research, natural resource conservation activities, trail and facility maintenance, restoration, and programs involving off-highway motor vehicle safety or education. If the application for grant funds involves activities on any public lands, all of the following shall apply:

(1) The applicant shall include a work plan for the project.

(2) The applicant shall provide written permission from the appropriate land manager to conduct a project, including a description of how the project fits with the land management goals of the area.

(3) The applicant shall provide matching funds or the equivalent value of volunteer services or material used, in an amount not less than 25 percent of the total project cost.

(4) The applicant shall be fiscally responsible for adhering to the terms and conditions of the grants.

(g) The deputy director of the division shall not participate in the scoring of grants or cooperative agreements.

(h) The department shall conduct an annual financial audit of the grants and cooperative agreements program. During each year, the department shall also conduct, or cause to be conducted, an audit of the performance of a minimum of 20 percent of grant and cooperative agreement recipients.

(i) The division shall establish an administrative appeal process as part of the grants and cooperative agreements program. At a minimum, this process shall do all of the following:

(1) Give applicants the right to appeal on the following grounds:

(A) The division failed to follow regulations established for the award of grants and cooperative agreements.

(B) The division lacked sufficient factual evidence to support or deny the award of a grant or cooperative agreement.

(2) Require the applicant to first appeal to the deputy director of the division. If that appeal is denied, the applicant may then appeal to the director of the division, or the director's appointee.

(3) Require applicants to file their first appeal within 30 calendar days following the notice of award or denial of a grant or cooperative agreement. Notice of the decision or the rejection of the appeal shall be issued within 60 days following the filing of an appeal.

(4) Require applicants to exhaust these appeal rights prior to seeking other legal remedies through the courts.

(j) A grant shall not be made, nor a cooperative agreement entered into, pursuant to this section without the approval of the director.

SEC. 10. Section 5090.51 of the Public Resources Code is repealed.

SEC. 11. Section 5090.53 of the Public Resources Code is amended to read:

5090.53. No funds may be granted or expended pursuant to Section 5090.50, unless all of the following conditions are met:

(a) If the project involves a ground disturbing activity, the recipient has completed wildlife habitat and soil surveys and has prepared a wildlife habitat protection program to sustain a viable species composition for the project area.

(b) If the project involves a ground disturbing activity, the recipient agrees to monitor the condition of soils and wildlife in the project area each year in order to determine whether the soil conservation standards adopted pursuant to Section 5090.35 and the wildlife habitat protection program prepared pursuant to subdivision (a) are being met.

(c) If the project involves a ground disturbing activity, the recipient agrees that, whenever the soil conservation standards adopted pursuant to Section 5090.35 are not being met in any portion of a project area, the recipient shall close temporarily that noncompliant portion, to repair and prevent accelerated erosion, until the same soil conservation standards adopted pursuant to Section 5090.35 are met.

(d) If the project involves a ground disturbing activity, the recipient agrees that, whenever the wildlife habitat protection program prepared pursuant to subdivision (a) is not being met in any portion of a project area, the recipient shall close temporarily that noncompliant portion until the same wildlife habitat protection program prepared pursuant to subdivision (a) is met.

(e) The recipient agrees to enforce the registration of off-highway motor vehicles and the other provisions of Division 16.5 (commencing with Section 38000) of the Vehicle Code and to enforce the other applicable laws regarding the operation of off-highway motor vehicles.

(f) The recipient agrees to cooperate with appropriate law enforcement entities to provide proper law enforcement at and around the facility.

(g) The recipient has identified the potential for the facility to reduce illegal and unauthorized off-highway motor vehicle recreation activities in the surrounding areas.

(h) The recipient has included in its application a description of how it is meeting the operations and maintenance needs of any existing off-highway motor vehicle recreation facility under its jurisdiction.

SEC. 12. Section 5090.61 of the Public Resources Code is repealed.

SEC. 13. Section 5090.61 is added to the Public Resources Code, to read:

5090.61. Moneys in the fund shall be available, upon appropriation by the Legislature, as follows:

(a) An amount, not to exceed 50 percent of the annual revenues to the fund, shall be available for grants and cooperative agreements pursuant to Article 5 (commencing with Section 5090.50).

(b) (1) The remainder of the annual revenues to the fund shall be available for the support of the division in implementing the off-highway motor vehicle recreation program and for the planning, acquisition, development, construction, maintenance, administration, operation, restoration, and conservation of lands in the system.

(2) As used in this subdivision, "support of the division" includes functions performed outside of the division by others on behalf of the division, including costs incurred on behalf of the division for personnel management and training, accounting, and fiscal analysis, records, purchasing, public information activities, consultation of professional scientists and reclamation experts for the purposes of Section 5090.35, and legal services. "Support of the division" does not include costs incurred by, or attributable to, the director or the director's immediate staff, or their salaries.

SEC. 14. Section 5090.63 of the Public Resources Code is repealed.

SEC. 15 Section 5090.64 of the Public Resources Code is repealed.

SEC. 16. Section 5090.70 of the Public Resources Code is amended to read:

5090.70. This chapter shall remain in effect only until January 1, 2018, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2018, deletes or extends that date.

SEC. 17. Section 5091.15 of the Public Resources Code is amended to read:

5091.15. (a) Except as provided in this section, no person shall, from November 1 of any year to May 30 of the next year or for a shorter time as determined by the department, park a vehicle in a designated parking area unless the vehicle displays a parking permit issued by the department. Overnight camping in a vehicle parked in a designated parking area may be authorized by the department when it determines that the use is for a recreational activity, is safe and prudent, and is of limited duration.

(b) No parking permit shall be required under this section for a vehicle owned and operated by the United States, another state or political subdivision thereof, or by this state or by a city, county, district, or political subdivision thereof.

(c) The fee for the issuance of a parking permit under this chapter shall be determined by the department. The department shall hold at

least one public hearing and notify the Legislature at least 30 days prior to any proposal to change the fees.

(d) A person who violates this section is guilty of an infraction punishable by a fine of seventy-five dollars ($75). Unless the peace officer issuing the citation witnesses the parking of the vehicle, a rebuttable presumption exists that a vehicle parked in violation of this section was parked by the registered owner of the vehicle. If the parking of the vehicle is witnessed by the peace officer, the operator of the vehicle is in violation of this section.

(e) The department may negotiate reciprocity agreements with other states having similar programs if the agreements are in the best interests of the California SNO-PARK program.

(f) The department may contract with appropriate agencies for law enforcement, including, but not limited to, the Department of the California Highway Patrol, the county sheriffs, and the United States Department of Agriculture Forest Service. Enforcement activities may be funded with moneys appropriated from the Winter Recreation Fund.

SEC. 18. Section 5091.25 of the Public Resources Code is amended to read:

5091.25. (a) Proceeds from the sale of SNO-PARK parking permits shall be paid to the State Treasury to the credit of the Winter Recreation Fund, which is hereby created.

(b) The moneys in the Winter Recreation Fund shall be allocated, when appropriated, as follows:

(1) An amount equal to the actual and necessary costs incurred in the removal of snow from designated parking areas shall be paid to the Department of Transportation.

(2) The balance of the funds shall be expended for the acquisition, lease, development, and maintenance of additional designated parking areas, for sanitation facilities, trailhead markings, and other facilities designed to promote the safety and well-being of persons engaged in winter recreation, and for grants to counties for the actual and necessary costs incurred in the removal of snow from designated parking areas, and to inform and educate the public about the program.

SEC. 19. Section 8352.6 of the Revenue and Taxation Code is repealed.

SEC. 20. Section 8352.6 is added to the Revenue and Taxation Code, to read:

8352.6. (a) Subject to Section 8352.1, on the first day of every month, there shall be transferred from money deposited to the credit of the Motor Vehicle Fuel Account to the Off-Highway Vehicle Trust Fund created by Section 38225 of the Vehicle Code an amount attributable to taxes imposed upon distributions of motor vehicle fuel used in the operation

of motor vehicles off-highway and for which a refund has not been claimed. Transfers made pursuant to this section shall be made prior to transfers pursuant to Section 8352.2.

(b) The amount transferred pursuant to subdivision (a), as a percent of the Motor Vehicle Fuel Account, shall be equal to the percent transferred in the 2006–07 fiscal year. Every five years, starting in the 2013–14 fiscal year, the percent transferred may be adjusted by the Department of Transportation in cooperation with the Department of Parks and Recreation and the Department of Motor Vehicles. Adjustments shall be based on, but not limited to, the changes in the following factors since the 2006–07 fiscal year or the last adjustment, whichever is more recent:

(1) The number of vehicles registered as off-highway motor vehicles as required by Division 16.5 (commencing with Section 38000) of the Vehicle Code.

(2) The number of registered street-legal vehicles that are anticipated to be used off-highway, including four-wheel drive vehicles, all-wheel drive vehicles, and dual-sport motorcycles.

(3) Attendance at the state vehicular recreation areas.

(4) Off-highway recreation use on federal lands as indicated by the United States Forest Service's National Visitor Use Monitoring and the United States Bureau of Land Management's Recreation Management Information System.

(c) It is the intent of the Legislature that transfers from the Motor Vehicle Fuel Account to the Off-Highway Motorized Vehicle Trust Fund should reflect the full range of motorized vehicle use off-highway for both motorized recreation and motorized off-road access to other recreation opportunities. Therefore, the Legislature finds that the fuel tax baseline established in subdivision (b), attributable to off-highway estimates of use as of the 2006–07 fiscal year, accounts for the three categories of vehicles that have been found over the years to be users of fuel for off-highway motorized recreation or motorized access to nonmotorized recreational pursuits. These three categories are registered off-highway motorized vehicles, registered street legal motorized vehicles used off-highway, and unregistered off-highway motorized vehicles.

(d) It is the intent of the Legislature that the off-highway motor vehicle recreational use to be determined by the Department of Transportation pursuant to paragraph (2) of subdivision (b), be that usage by vehicles subject to registration under Division 3 (commencing with Section 4000) of the Vehicle Code, for recreation or the pursuit of recreation on surfaces where the use of vehicles registered under Division 16.5 (commencing with Section 38000) of the Vehicle Code may occur.

SEC. 21. Section 8352.7 of the Revenue and Taxation Code is repealed.

SEC. 22. Section 8352.8 of the Revenue and Taxation Code is amended to read:

8352.8. (a) The Conservation and Enforcement Services Account is hereby established as an account in the Off-Highway Vehicle Trust Fund created by Section 38225 of the Vehicle Code.

(b) Funds in the Conservation and Enforcement Services Account shall be allocated to the Division of Off-Highway Motor Vehicle Recreation of the Department of Parks and Recreation for expenditure, upon appropriation by the Legislature, for the following purposes:

(1) Up to the 40 percent of the funds, for cooperative agreements or challenge cost-sharing agreements with the United States Forest Service and the United States Bureau of Land Management, to complete necessary route designation planning work and to implement route planning decisions.

(2) Up to one million one hundred thousand dollars ($1,100,000) for each grant cycle, to increase the amount of funds available for restoration grants in the program pursuant to paragraph (2) of subdivision (b) of Section 5090.50 of the Public Resources Code.

SEC. 23. Section 38165 of the Vehicle Code is amended to read:

38165. (a) The department shall determine the size, color, and letters or number of the plate or device issued pursuant to this division and the life of the series of plate or device issued, but in no event less than six years. The design of the plate or device shall have the identification number as the most prominent feature of the device. During the intervening identification periods for which the plate or device is issued, the department shall issue a tab, sticker, or other suitable device to indicate the term for which such plate or device will be valid.

(b) On or before July 1, 2009, the department, in conjunction with the Division of Off-Highway Motor Vehicle Recreation of the Department of Parks and Recreation, shall report to the Assembly Committee on Water, Parks and Wildlife and the Senate Committee on Natural Resources and Water, regarding recommendations to improve the identification of off-highway motor vehicles. At a minimum, the report shall examine the benefits and challenges of all of the following:

(1) Using multiple identification stickers for each vehicle.

(2) Using large-print identifying numbers or letters.

(3) Various identifying devices, such as license plates and stickers.

(4) Requiring license plates or other device alternatives for certain off-highway vehicle types.

(5) Including a unique number for special nonresident permits issued under Section 38087.5.

(c) In preparing the report, the department and the Division of Off-Highway Motor Vehicle Recreation shall work with vehicle manufacturers to evaluate feasibility.

SEC. 24. Section 38225 of the Vehicle Code, as amended by Section 58 of Chapter 77 of the Statutes of 2006, is amended to read:

38225. (a) A service fee of seven dollars ($7) shall be paid to the department for the issuance or renewal of identification of off-highway motor vehicles subject to identification, except as expressly exempted under this division.

(b) In addition to the service fee required by subdivision (a), a special fee of thirty-three dollars ($33) shall be paid at the time of payment of the service fee for the issuance or renewal of an identification plate or device.

(c) All money transferred pursuant to Section 8352.6 of the Revenue and Taxation Code, all fees received by the department pursuant to subdivision (b), and all day use, overnight use, or annual or biennial use fees for state vehicular recreation areas received by the Department of Parks and Recreation shall be deposited in the Off-Highway Vehicle Trust Fund, which is hereby created. There shall be a separate reporting of special fee revenues by vehicle type, including four-wheeled vehicles, all-terrain vehicles, motorcycles, and snowmobiles. All money shall be deposited in the fund, and, upon appropriation by the Legislature, shall be allocated according to Section 5090.61 of the Public Resources Code.

(d) Any money temporarily transferred by the Legislature from the Off-Highway Vehicle Trust Fund to the General Fund shall be reimbursed, without interest, by the Legislature within two fiscal years of the transfer.

(e) This section shall remain in effect only until January 1, 2018, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2018, deletes or extends that date. Any unencumbered funds remaining in the Off-Highway Vehicle Trust Fund on January 1, 2018, shall be transferred to the General Fund.

SEC. 25. Section 38301 of the Vehicle Code is amended to read:

38301. (a) It is unlawful to operate a vehicle in violation of special regulations which have been promulgated by the governmental agency having jurisdiction over public lands, including, but not limited to, regulations governing access, routes of travel, plants, wildlife, wildlife habitat, water resources, and historical sites.

(b) A person who operates a motor vehicle in an area closed to that vehicle is guilty of a public offense and shall be punished as follows:

(1) Except as provided in paragraphs (2) and (3), the offense is an infraction punishable by a fine not exceeding fifty dollars ($50).

(2) For a second offense committed within seven years after a prior violation for which there was a conviction punishable under paragraph (1), the offense is an infraction punishable by a fine not exceeding seventy-five dollars ($75).

(3) For a third or subsequent offense committed within seven years after two or more prior violations for which there were convictions punishable under this section, the offense is punishable by a fine not exceeding one hundred fifty dollars ($150). In addition to the fine, the court may assess costs sufficient to repair property damage resulting from the violation.

SEC. 26. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CHAPTER 542

An act to amend Section 47200 of, and to add and repeal Article 3.4 (commencing with Section 47120) of Chapter 1 of Part 7 of Division 30 of, the Public Resources Code, relating to pharmaceutical waste.

[Approved by Governor October 12, 2007. Filed with Secretary of State October 12, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Article 3.4 (commencing with Section 47120) is added to Chapter 1 of Part 7 of Division 30 of the Public Resources Code, to read:

Article 3.4. Drug Waste Management and Disposal

47120. (a) The Legislature finds and declares all of the following:

(1) The United States Geological Survey conducted a study in 2002 sampling 139 streams across 30 states and found that 80 percent had measurable concentrations of prescription and nonprescription drugs, steroids, and reproductive hormones.

(2) Exposure, even to low levels of drugs, has been shown to have negative effects on fish and other aquatic species and may have negative effects on human health.

(3) In order to reduce the likelihood of improper disposal of drugs, it is the purpose of this article to establish a program through which the public may return and ensure the safe and environmentally sound disposal of drugs and may do so in a way that is convenient for consumers.

(b) It is the intent of the Legislature in enacting this article:

(1) To encourage a cooperative relationship between the board and manufacturers, retailers, and local, state, and federal government agencies in the board's development of model programs to devise a safe, efficient, convenient, cost-effective, sustainable, and environmentally sound solution for the disposal of drugs.

(2) For the programs and systems developed in other local, state, and national jurisdictions to be used as models for the development of pilot programs in California, including, but not limited to, the efforts in Los Angeles, Marin, San Mateo, and Santa Clara Counties, Oregon, Maine, North Carolina, Washington State, British Columbia, and Australia.

(3) To develop a system that recognizes the business practices of manufacturers and retailers and other dispensers and is consistent with and complements their drug management programs.

47121. For the purposes of this article, the following terms have the following meanings, unless the context clearly requires otherwise:

(a) "Consumer" means an individual purchaser or owner of a drug. "Consumer" does not include a business, corporation, limited partnership, or an entity involved in a wholesale transaction between a distributor and retailer.

(b) "Drug" means any of the following:

(1) Articles recognized in the official United States Pharmacopoeia, the official National Formulary, the official Homeopathic Pharmacopoeia of the United States, or any supplement of the formulary or those pharmacopoeias.

(2) Articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or other animals.

(3) Articles, excluding food, intended to affect the structure or function of the body of humans or other animals.

(4) Articles intended for use as a component of an article specified in paragraph (1), (2), or (3).

(c) "Participant" means any entity which the board deems appropriate for implementing and evaluating a model program and which chooses to participate, including, but not limited to, governmental entities, pharmacies, veterinarians, clinics, and other medical settings.

(d) "Sale" includes, but is not limited to, transactions conducted through sales outlets, catalogs, or the Internet, or any other similar electronic means, but does not include a sale that is a wholesale transaction with a distributor or retailer.

47122. (a) (1) The board shall, in consultation with appropriate state, local, and federal agencies, including, but not limited to, the Department of Toxic Substances Control, the State Water Resources Control Board, and the California State Board of Pharmacy, develop model programs for the collection and proper disposal of drug waste. Notwithstanding any other provision of law, the board shall establish, for participants, criteria and procedures for the implementation of the model programs.

(2) In developing model programs the board shall evaluate a variety of models used by other state, local, and other governmental entities, and shall consider a variety of potential participants that may be appropriate for the collection and disposal of drug waste.

(3) No sooner than July 1, 2008, but no later than December 1, 2008, the board shall make the model programs available to eligible participants.

(b) The model programs shall at a minimum include all of the following:

(1) A means by which a participant is required to provide, at no additional cost to the consumer, for the safe take back and proper disposal of the type or brand of drugs that the participant sells or previously sold.

(2) A means by which a participant is required to ensure the protection of public health and safety, the environment, and the health and safety of consumers and employees.

(3) A means by which a participant is required to report to the board for purposes of evaluation of the program for safety, efficiency, effectiveness, and funding sustainability.

(4) A means by which a participant shall protect against the potential for the diversion of drug waste for unlawful use or sale.

(c) The model programs shall provide notice and informational materials for consumers that provide information about the potential impacts of improper disposal of drug waste and the return opportunities for the proper disposal of drug waste. Those materials may include, Internet Web site links, a telephone number placed on an invoice or purchase order, or packaged with a drug; information about the opportunities and locations for no-cost drug disposal; signage that is prominently displayed and easily visible to the consumer; written materials provided to the consumer at the time of purchase or delivery; reference to the drug take back opportunity in advertising or other

promotional materials; or direct communications with the consumer at the time of purchase.

(d) Model programs deemed in compliance with this article shall be deemed in compliance with state law and regulation concerning the handling, management, and disposal of drug waste for the purposes of implementing the model program.

(e) (1) The board may develop regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code that are necessary to implement this article, including regulations that the department determines are necessary to implement the provisions of this article in a manner that is enforceable.

(2) The board may adopt regulations to implement this article as emergency regulations. The emergency regulations adopted pursuant to this article shall be adopted by the department in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and for the purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of these regulations is hereby deemed an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health, safety, and general welfare. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, any emergency regulations adopted by the department pursuant to this section shall be filed with, but not be repealed by, the Office of Administrative Law and shall remain in effect for a period of two years or until revised by the department, whichever occurs sooner.

47123. Notwithstanding Section 7550.5 of the Government Code, no later than December 1, 2010, the board shall report to the Legislature. The report shall include an evaluation of the model programs for efficacy, safety, statewide accessibility, and cost effectiveness. The report shall include the consideration of the incidence of diversion of drugs for unlawful sale and use, if any. The report also shall provide recommendations for the potential implementation of a statewide program and statutory changes.

47124. This article shall not apply to a controlled substance, as defined in Section 11007 of the Health and Safety Code.

47125. Nothing in this article shall limit or affect any other right or remedy under any applicable law.

47126. This article shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

SEC. 2. Section 47200 of the Public Resources Code is amended to read:

47200. (a) The board shall expend funds from the account, upon appropriation by the Legislature, for the making of grants to cities, counties, or other local agencies with responsibility for solid waste management, and for local programs to help prevent the disposal of hazardous wastes at disposal sites, including, but not limited to, programs to expand or initially implement household hazardous waste programs. In making grants pursuant to this section, the board shall give priority to funding programs that provide for the following:

(1) New programs for rural areas, underserved areas, and for small cities.

(2) Expansion of existing programs to provide for the collection of additional waste types, innovative or more cost-effective collection methods, or expanded public education services.

(3) Regional household hazardous waste programs.

(b) (1) The total amount of grants made by the board pursuant to this section shall not exceed, in any one fiscal year, three million dollars ($3,000,000).

(2) Notwithstanding paragraph (1), the total amount of grants made by the board pursuant to this section may exceed three million dollars ($3,000,000) but shall not exceed six million dollars ($6,000,000), in any one fiscal year, if sufficient funds are appropriated from the Integrated Waste Management Account for this purpose.

CHAPTER 543

An act to amend Section 18035 of the Health and Safety Code, relating to housing.

[Approved by Governor October 12, 2007. Filed with Secretary of State October 12, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 18035 of the Health and Safety Code is amended to read:

18035. (a) (1) For every transaction by or through a dealer to sell or lease with the option to buy a new or used manufactured home or mobilehome subject to registration under this part, the dealer shall execute in writing and obtain the buyer's signature on a purchase order, conditional sale contract, or other document evidencing the purchase contemporaneous with, or prior to, the receipt of any cash or cash equivalent from the buyer, shall establish an escrow account with an

escrow agent, and shall cause to be deposited into that escrow account any cash or cash equivalent received at any time prior to the close of escrow as a deposit, downpayment, or whole or partial payment for the manufactured home or mobilehome or accessory thereto. Checks, money orders, or similar payments toward the purchase shall be made payable only to the escrow agent.

(2) The downpayment, or whole or partial payment, shall include an amount designated as a deposit, which may be less than, or equal to, the total amount placed in escrow, and shall be subject to subdivision (f). The parties shall provide for escrow instructions that identify the fixed amounts of the deposit, downpayment, and balance due prior to closing consistent with the amounts set forth in the purchase documents and receipt for deposit if one is required by Section 18035.1. The deposits shall be made by the dealer within five working days of receipt, one of which shall be the day of receipt.

(3) For purposes of this section, "cash equivalent" means any property, other than cash. If an item of cash equivalent is, due to its size, incapable of physical delivery to the escrowholder, the property may be held by the dealer for the purchaser until close of escrow and, if the property has been registered with the department or the Department of Motor Vehicles, its registration certificate and, if available, its certificate of title shall be delivered to the escrowholder.

(b) For every transaction by or through a dealer to sell or lease with the option to buy a new manufactured home or mobilehome subject to registration under this part, the escrow instructions shall provide all of the following:

(1) That the original manufacturer's certificate of origin be placed in escrow.

(2) (A) That, in the alternative, either of the following shall occur:

(i) The lien of any inventory creditor on the manufactured home or mobilehome shall be satisfied by payment from the escrow account.

(ii) The inventory creditor shall consent in writing to other than full payment.

(B) For purposes of this paragraph, "inventory creditor" includes any person who is identified as a creditor on the manufacturer's certificate of origin or any person who places the original certificate of origin in escrow and claims in writing to the escrow agent to have a purchase money security interest in the manufactured home or mobilehome, as contemplated by Section 9103 of the Commercial Code.

(3) That the escrow agent shall obtain from the manufacturer a true and correct facsimile of the copy of the certificate of origin retained by the manufacturer pursuant to Section 18093.

(c) For every transaction by or through a dealer to sell or lease with the option to buy a used manufactured home or mobilehome subject to registration under this part, the escrow instructions shall provide:

(1) That the current registration card, all copies of the registration cards held by junior lienholders, and the certificate of title be placed in escrow.

(2) That, in the alternative, either of the following shall occur:

(A) (i) The registered owner shall acknowledge in writing the amount of the commission to be received by the dealer for the sale of the manufactured home or mobilehome, and (ii) the registered owner shall release all of its ownership interests in the manufactured home or mobilehome either contemporaneously upon the payment of a specified amount from the escrow account or at the close of the escrow where the buyer has executed a security agreement approved by the registered owner covering the unpaid balance of the purchase price.

(B) (i) The dealer shall declare in writing that the manufactured home or mobilehome is its inventory, (ii) the registered owner shall acknowledge in writing that the purchase price relating to the sale of the manufactured home or mobilehome to the dealer for resale has been paid in full by the dealer, (iii) the current certificate of title shall be appropriately executed by the registered owner to reflect the release of all of its ownership interests, and (iv) the dealer shall release all of its ownership interests in the manufactured home or mobilehome either contemporaneously upon the payment of a specified amount from the escrow account or at the close of escrow where the buyer has executed a security agreement approved by the dealer covering the unpaid balance of the purchase price.

(3) That, in the alternative, the legal owner and each junior lienholder, respectively, shall do either of the following:

(A) Release his or her security interest or transfer its security interest to a designated third party contemporaneously upon the payment of a specified amount from the escrow account.

(B) Advise the escrow agent in writing that the new buyer or the buyer's stated designee shall be approved as the new registered owner upon the execution by the buyer of a formal assumption of the indebtedness secured by his or her lien approved by the creditor at or before the close of escrow.

(d) For every transaction by or through a dealer to sell or lease with the option to buy a used manufactured home or mobilehome subject to registration under this part:

(1) The dealer shall present the buyer's offer to purchase the manufactured home or mobilehome to the seller in written form signed by the buyer. The seller, upon accepting the offer to purchase, shall sign

and date the form. Copies of the fully executed form shall be presented to both the buyer and seller, with the original copy retained by the dealer. Any portion of the form that reflects the commission charged by the dealer to the seller need not be disclosed to the buyer.

(2) The escrow agent, upon receipt of notification from the dealer that the seller has accepted the buyer's offer to purchase and receipt of mutually endorsed escrow instructions, shall, within three working days, prepare a notice of escrow opening on the form prescribed by the department and forward the completed form to the department with appropriate fees. If the escrow is canceled for any reason before closing, the escrow agent shall prepare a notice of escrow cancellation on the form prescribed by the department and forward the completed form to the department.

(3) (A) The escrow agent shall forward to the legal owner and each junior lienholder at their addresses shown on the current registration card a written demand for a lien status report, as contemplated by Section 18035.5, and a written demand for either an executed statement of conditional lien release or an executed statement of anticipated formal assumption, and shall enclose blank copies of a statement of conditional lien release and a statement of anticipated formal assumption on forms prescribed by the department. The statement of conditional lien release shall include, among other things, both of the following:

(i) A statement of the dollar amount or other conditions required by the creditor in order to release or transfer its lien.

(ii) The creditor's release or transfer of the lien in the manufactured home or mobilehome contingent upon the satisfaction of those conditions.

(B) The statement of anticipated formal assumption shall include, among other things, both of the following:

(i) A statement of the creditor's belief that the buyer will formally assume the indebtedness secured by its lien pursuant to terms and conditions which are acceptable to the creditor at or before the close of escrow.

(ii) The creditor's approval of the buyer or his or her designee as the registered owner upon the execution of the formal assumption.

(4) Within five days of the receipt of the written demand and documents required by paragraph (3), the legal owner or junior lienholder shall complete and execute either the statement of conditional lien release or, if the creditor has elected to consent to a formal assumption requested by a qualified buyer, the statement of anticipated formal assumption, as appropriate, and prepare the lien status report and forward the documents to the escrow agent by first-class mail. If the creditor is the legal owner, the certificate of title in an unexecuted form shall accompany the documents. If the creditor is a junior lienholder, the creditor's copy of

the current registration card in an unexecuted form shall accompany the documents.

(5) If either of the following events occurs, any statement of conditional lien release or statement of anticipated formal assumption executed by the creditor shall become inoperative, and the escrow agent shall thereupon return the form and the certificate of title or the copy of the current registration card, as appropriate, to the creditor by first-class mail:

(A) The conditions required in order for the creditor to release or transfer his or her lien are not satisfied before the end of the escrow period agreed upon in writing between the buyer and the seller or, if applicable, before the end of any extended escrow period as permitted by subdivision (g).

(B) The registered owner advises the creditor not to accept any satisfaction of his or her lien or not to permit any formal assumption of the indebtedness and the creditor or registered owner advises the escrow agent in writing accordingly.

(6) If a creditor willfully fails to comply with the requirements of paragraph (4) within 21 days of the receipt of the written demand and documents required by paragraph (3), the creditor shall forfeit to the escrow agent three hundred dollars ($300), except where the creditor has reasonable cause for noncompliance. The three hundred dollars ($300) shall be credited to the seller, unless otherwise provided in the escrow instructions. Any penalty paid by a creditor under this paragraph shall preclude any civil liability for noncompliance with Section 18035.5 relating to the same act or omission.

(e) For every transaction by or through a dealer to sell or lease with the option to buy a new or used manufactured home or mobilehome, the escrow instructions shall specify one of the following:

(1) Upon the buyer receiving delivery of an installed manufactured home or mobilehome on the site and the manufactured home or mobilehome passing inspection pursuant to Section 18613 or after the manufactured home or mobilehome has been delivered to the location specified in the escrow instructions when the installation is to be performed by the buyer, all funds in the escrow account, other than escrow fees and amounts for accessories not yet delivered, shall be disbursed. If mutually agreed upon between buyer and dealer, the escrow instructions may specify that funds be disbursed to a government agency for the payment of fees and permits required as a precondition for an installation acceptance or certificate of occupancy, and the information that may be acceptable to the escrow agent.

(2) Upon the buyer receiving delivery of an installed manufactured home or mobilehome not subject to the provisions of Section 18613 with

delivery requirements as mutually agreed to and set forth in the sales documents, all funds in the escrow account, other than escrow fees, shall be disbursed.

(f) Upon receiving written notice from a party to the escrow of a dispute, the escrow agent shall inform the party of his or her right to hold funds in escrow by submitting a written request to hold funds in escrow. Upon receipt by the escrow agent of a party's written request to hold funds in escrow, all funds denoted as deposit shall be held in escrow until a release is signed by the disputing party, or pursuant to new written escrow instructions signed by the parties involved, or pursuant to a final order for payment or division by a court of competent jurisdiction. Any other funds, other than escrow fees, shall be returned to the buyer or any person, other than the dealer or seller, as appropriate. At the opening of escrow, the escrow agent shall give notice of the right to request that funds be held in escrow pursuant to this subdivision.

(g) Escrow shall be for a period of time mutually agreed upon, in writing, by the buyer and the seller. However, the parties may, by mutual consent, extend the time, in writing, with notice to the escrow agent.

(h) No dealer or seller shall establish with an escrow agent any escrow account in an escrow company in which the dealer or seller has more than a 5-percent ownership interest.

(i) The escrow instructions may provide for the proration of any local property tax due or to become due on the manufactured home or mobilehome, and if the tax, or the license fee imposed pursuant to Section 18115, or the registration fee imposed pursuant to Section 18114, is delinquent, the instructions may provide for the payment of the taxes or fees, or both, and any applicable penalties.

(j) For every transaction by or through a dealer to sell or lease with the option to buy a new or used manufactured home or mobilehome that is subject to inspection pursuant to Section 18613, and for which it is stated, on the face of the document certifying or approving occupancy or installation, that the issuance of the document is conditioned upon the payment of a fee, charge, dedication, or other requirement levied pursuant to Section 53080 of the Government Code, the escrow instructions shall provide that the payment of that fee, charge, dedication, or other requirement be made to the appropriate school district upon the close of escrow.

(k) No agreement shall contain any provision by which the buyer waives his or her rights under this section, and any waiver shall be deemed contrary to public policy and shall be void and unenforceable.

(*l*) If a portion of the amount in the escrow is for accessories, then that portion of the amount shall not be released until the accessories are actually installed.

(m) Upon opening escrow on a used manufactured home or mobilehome which is subject to local property taxation, and subject to registration under this part, the escrow officer may forward to the tax collector of the county in which the used manufactured home or mobilehome is located, a written demand for a tax clearance certificate, if no liability exists, or a conditional tax clearance certificate if a tax liability exists, to be provided on a form prescribed by the office of the Controller. The conditional tax clearance certificate shall state the amount of the tax liability due, if any, and the final date that amount may be paid out of the proceeds of escrow before a further tax liability may be incurred.

(1) Within five working days of receipt of the written demand for a conditional tax clearance certificate or a tax clearance certificate, the county tax collector shall forward the conditional tax clearance certificate or a tax clearance certificate showing no tax liability exists to the requesting escrow officer. In the event the tax clearance certificate's or conditional tax clearance certificate's final due date expires within 30 days of date of issuance, an additional conditional tax clearance certificate or a tax clearance certificate shall be completed which has a final due date of at least 30 days beyond the date of issuance.

(2) If the tax collector on which the written demand for a tax clearance certificate or a conditional tax clearance certificate was made fails to comply with that demand within 30 days from the date the demand was mailed, the escrow officer may close the escrow and submit a statement of facts certifying that the written demand was made on the tax collector and the tax collector failed to comply with that written demand within 30 days. This statement of facts may be accepted by the department in lieu of a conditional tax clearance certificate or a tax clearance certificate, as prescribed by subdivision (a) of Section 18092.7, and the transfer of ownership may be completed.

(3) The escrow officer may satisfy the terms of the conditional tax clearance certificate by paying the amount of tax liability shown on the form by the tax collector out of the proceeds of escrow on or before the date indicated on the form and by certifying in the space provided on the form that all terms and conditions of the conditional tax clearance certificate have been complied with.

(n) This section creates a civil cause of action against a buyer or dealer or other seller who violates this section, and upon prevailing, the plaintiff in the action shall be awarded actual damages, plus an amount not in excess of two thousand dollars ($2,000). In addition, attorney's

fees and court costs shall also be awarded a plaintiff who prevails in the action.

CHAPTER 544

An act to amend Section 14166.75 of the Welfare and Institutions Code, relating to hospitals.

[Approved by Governor October 12, 2007. Filed with Secretary of State October 12, 2007.]

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) The Medi-Cal Hospital/Uninsured Care Demonstration Project has provided stabilization funding in supplementation of Medi-Cal reimbursement to various safety net hospitals, including designated public hospitals, for each of the 2005–06 and 2006–07 project years.

(b) The stabilization funding provided to date has been critical for maintaining essential safety net health care services to low-income and medically indigent populations in California.

(c) It is the intent of the Legislature to provide an appropriate distribution mechanism for designated public hospitals with respect to any available stabilization funding that is allocable to the designated public hospitals beyond the 2006–07 project year.

SEC. 2. Section 14166.75 of the Welfare and Institutions Code is amended to read:

14166.75. (a) For services provided during the 2005–06 and 2006–07 project years, the amount allocated to designated public hospitals pursuant to subparagraph (A) of paragraph (2) and subparagraph (A) of paragraph (5) of subdivision (b) of Section 14166.20 shall be allocated, in accordance with this section, among the designated public hospitals. For services provided during the 2007–08, 2008–09, and 2009–10 project years, amounts allocated to designated public hospitals as stabilization funding pursuant to any provision of this article, unless otherwise specified, shall be allocated among the designated public hospitals in accordance with this section. All amounts allocated to designated public hospitals in accordance with this section shall be paid as direct grants, which shall not constitute Medi-Cal payments.

(b) The baseline funding amount, as determined under Section 14166.5, for San Mateo Medical Center shall be increased by eight million dollars ($8,000,000) for purposes of this section.

(c) The following payments shall be made from the amount identified in subdivision (a), in addition to any other payments due to the University of California hospitals and health system and County of Los Angeles hospitals under this section:

(1) The lower of eleven million dollars ($11,000,000) or 3.67 percent of the amount identified in subdivision (a) to the University of California hospitals and health system.

(2) For each of the 2005–06 and 2006–07 project years, in the event that the one hundred eighty million dollars ($180,000,000) identified in paragraph 41 of the Special Terms and Conditions for the demonstration project is available in the safety net care pool for the project year, the lower of twenty-three million dollars ($23,000,000) or 7.67 percent of the amount identified in subdivision (a) to the County of Los Angeles, Department of Health Services, hospitals. If an amount less than the one hundred eighty million dollars ($180,000,000) is available during the project year, the amount determined under this paragraph shall be reduced proportionately.

(d) For the 2005–06 and 2006–07 project years, the amount identified in subdivision (a), as reduced by the amounts identified in subdivision (c), shall be distributed among the designated public hospitals pursuant to this subdivision.

(1) Designated public hospitals that are donor hospitals, and their associated donated certified public expenditures, shall be identified as follows:

(A) An initial pro rata allocation of the amount subject to this subdivision shall be made to each designated public hospital, based upon the hospital's baseline funding amount determined pursuant to Section 14166.5, and as further adjusted in subdivision (b). This initial allocation shall be used for purposes of the calculations under subparagraph (C) and paragraph (3).

(B) The federal financial participation amount arising from the certified public expenditures of each designated public hospital, including the expenditures of the governmental entity, nonhospital clinics, and other provider types with which it is affiliated, that were claimed by the department from the federal disproportionate share hospital allotment pursuant to subparagraphs (A) and (C) of paragraph (2) of subdivision (a) of Section 14166.9, and from the safety net care pool funds pursuant to paragraph (3) of subdivision (a) of Section 14166.9, shall be determined.

(C) The amount of federal financial participation received by each designated public hospital, and by the governmental entity, nonhospital clinics, and other provider types with which it is affiliated, based on certified public expenditures from the federal disproportionate share

hospital allotment pursuant to paragraph (1) of subdivision (b) of Section 14166.6, and from the safety net care pool payments pursuant to subdivision (a) of Section 14166.7 shall be identified. With respect to this identification, if a payment adjustment for a hospital has been made pursuant to paragraph (2) of subdivision (f) of Section 14166.6, or paragraph (2) of subdivision (b) of Section 14166.7, the amount of federal financial participation received by the hospital based on certified public expenditures shall be determined as though no such payment adjustment had been made. The resulting amount shall be increased by amounts distributed to the hospital pursuant to subdivision (c) of this section, paragraph (1) of subdivision (b) of Section 14166.20, and the initial allocation determined for the hospitals in subparagraph (A).

(D) If the amount in subparagraph (B) is greater than the amount determined in subparagraph (C), the hospital is a donor hospital, and the difference between the two amounts is deemed to be that donor hospital's associated donated certified public expenditures amount.

(2) Seventy percent of the total amount subject to this subdivision shall be allocated pro rata among the designated public hospitals based upon each hospital's baseline funding amount determined pursuant to Section 14166.5, and as further adjusted in subdivision (b).

(3) The lesser of the remaining 30 percent of the total amount subject to this subdivision or the total amounts of donated certified public expenditures for all donor hospitals, shall be distributed pro rata among the donor hospitals based upon the donated certified public expenditures amount determined for each donor hospital. Any amounts not distributed pursuant to this paragraph shall be distributed in the same manner as set forth in paragraph (2).

(e) For the 2007–08 and subsequent project years, the amount identified in subdivision (a), as reduced by the amounts identified in subdivision (c), shall be distributed among the designated public hospitals pursuant to this subdivision.

(1) Each designated public hospital that renders inpatient hospital services under the health care coverage initiative program authorized pursuant to Part 3.5 (commencing with Section 15900) shall be allocated an amount equal to the amount of the federal safety net pool funds claimed and received with respect to the services rendered by the hospital, including services rendered to enrollees of a managed care organization, to the extent the amount was included in the determination of total stabilization funding for the project year pursuant to Section 14166.20.

(2) Each designated public hospital for which, during the project year, the sum of the allowable costs incurred in rendering inpatient hospital services to Medi-Cal beneficiaries and the allowable costs incurred with respect to supplemental reimbursement for physician and nonphysician

practitioner services rendered to Medi-Cal hospital inpatients, as specified in Section 14166.4, exceeds the allowable costs incurred for those services rendered in the prior year, shall be allocated an amount equal to 60 percent of the difference in the allowable costs, multiplied by the applicable federal medical assistance percentage. The allocations under this paragraph, however, shall be reduced pro rata as necessary to ensure that the total of those allocations does not exceed 80 percent of the amount subject to this subdivision after the allocations in paragraph (1). For purposes of this paragraph, the most recent cost data that are available at the time of the department's determinations for the project year pursuant to Section 14166.20 shall be used.

(3) The remaining amount subject to this subdivision that is not otherwise allocated pursuant to paragraphs (1) and (2) shall be allocated as set forth below:

(A) Designated public hospitals that are donor hospitals, and their associated donated certified public expenditures, shall be identified as follows:

(i) An initial pro rata allocation of the amount subject to this paragraph shall be made to each designated public hospital, based upon the total allowable costs incurred by each hospital, or governmental entity with which it is affiliated, in rendering hospital services to the uninsured during the project year as reported pursuant to Section 14166.8. This initial allocation shall be used for purposes of the calculations under clause (iii) and subparagraph (C).

(ii) The federal financial participation amount arising from the certified public expenditures of each designated public hospital, including the expenditures of the governmental entity, nonhospital clinics, and other provider types with which it is affiliated, that were claimed by the department from the federal disproportionate share hospital allotment pursuant to subparagraphs (A) and (C) of paragraph (2) of subdivision (a) of Section 14166.9, and from the safety net care pool funds pursuant to paragraph (3) of subdivision (a) of Section 14166.9, shall be determined.

(iii) The amount of federal financial participation received by each designated public hospital, and by the governmental entity, nonhospital clinics, and other provider types with which it is affiliated, based on certified public expenditures from the federal disproportionate share hospital allotment pursuant to paragraph (1) of subdivision (b) of Section 14166.6, and from the safety net care pool payments pursuant to subdivision (a) of Section 14166.7 shall be identified. With respect to this identification, if a payment adjustment for a hospital has been made pursuant to paragraph (2) of subdivision (f) of Section 14166.6, or paragraph (2) of subdivision (b) of Section 14166.7, the amount of federal

financial participation received by the hospital based on certified public expenditures shall be determined as though no payment adjustment had been made. The resulting amount shall be increased by amounts distributed to the hospital pursuant to subdivision (c), paragraphs (1) and (2) of this subdivision, paragraph (1) of subdivision (b) of Section 14166.20, and the initial allocation determined for the hospitals in clause (i).

(iv) If the amount in clause (ii) is greater than the amount determined in clause (iii), the hospital is a donor hospital, and the difference between the two amounts is deemed to be that donor hospital's associated donated certified public expenditures amount.

(B) Fifty percent of the total amount subject to this paragraph shall be allocated pro rata among the designated public hospitals in the same manner described in clause (i) of subparagraph (A).

(C) The lesser of the remaining 50 percent of the total amount subject to this paragraph, the total amounts of donated certified public expenditures for all donor hospitals or that amount that is 30 percent of the amount subject to this subdivision after the allocations in paragraph (1), shall be distributed pro rata among the donor hospitals based upon the donated certified public expenditures amount determined for each donor hospital. Any amounts not distributed pursuant to this subparagraph shall be distributed in the same manner as set forth in subparagraph (B).

(f) The department shall consult with designated public hospital representatives regarding the appropriate distribution of stabilization funding before stabilization funds are allocated and paid to hospitals. No later than 30 days after this consultation, the department shall issue a final allocation of stabilization funding under this section that shall not be modified for any reason other than mathematical errors or mathematical omissions on the part of the department.

CHAPTER 545

An act to amend Section 1417.2 of the Health and Safety Code, relating to long-term health care facilities.

[Approved by Governor October 12, 2007. Filed with Secretary of State October 12, 2007.]

The people of the State of California do enact as follows:

SECTION 1. The Legislature hereby finds and declares all of the following:

(a) Congress passed the Nursing Home Reform Act, which allowed the government to issue sanctions against nursing homes that failed to comply with federal Medicare and Medicaid quality of care requirements.

(b) Civil money penalties are one type of sanction established by the federal government to encourage nursing homes to comply with federal requirements and to prevent poor quality of care.

(c) The federal government contracts with state licensing and certification to inspect nursing homes and to issue civil money penalties for violations of federal conditions of participation.

(d) Moneys collected as a result of civil penalties imposed as a result of violations of federal and state statutes should be deposited into two separate accounts that are established in the Special Deposit Fund pursuant to Section 16370 of the Government Code.

(e) These civil money penalties offer an opportunity to make the lives of nursing home residents better by providing additional resources to the state to improve the quality of care and quality of life for residents.

(f) In 2002, the federal Centers for Medicare and Medicaid Services provided guidance to ensure that states use civil money penalty funds in accordance with federal law while allowing flexibility in the use of the funds.

(g) The written guidance to states allows civil money penalty funds to be used to prevent continued noncompliance by nursing facilities through educational or other means and to authorize the use of the moneys for any project that directly benefits facility residents.

SEC. 2. Section 1417.2 of the Health and Safety Code is amended to read:

1417.2. (a) Notwithstanding Section 1428, moneys collected as a result of state and federal civil penalties imposed under this chapter or federal law shall be deposited into accounts that are hereby established in the Special Deposit Fund created pursuant to Section 16370 of the Government Code. These accounts are titled the State Health Facilities Citation Penalties Account, into which moneys derived from civil penalties for violations of state law shall be deposited, and the Federal Health Facilities Citation Penalties Account, into which moneys derived from civil penalties for violations of federal law shall be deposited. Moneys from these accounts shall be used, notwithstanding Section 16370 of the Government Code, upon appropriation by the Legislature, in accordance with state and federal law for the protection of health or property of residents of long-term health care facilities, including, but not limited to, the following:

(1) Relocation expenses incurred by the department, in the event of a facility closure.

(2) Maintenance of facility operation pending correction of deficiencies or closure, such as temporary management or receivership, in the event that the revenues of the facility are insufficient.

(3) Reimbursing residents for personal funds lost. In the event that the loss is a result of the actions of a long-term health care facility or its employees, the revenues of the facility shall first be used.

(4) The costs associated with informational meetings required under Section 1327.2.

(b) Notwithstanding subdivision (a), the balance in the State Health Facilities Citation Penalties Account shall not, at any time, exceed ten million dollars ($10,000,000).

(c) Moneys from the Federal Health Facilities Citation Penalties Account, in the amount not to exceed one hundred thirty thousand dollars ($130,000), may also be used, notwithstanding Section 16370 of the Government Code, upon appropriation by the Legislature, in accordance with state and federal law for the improvement of quality of care and quality of life for long-term health care facilities residents pursuant to Section 1417.3.

(d) The department shall post on its Web site, and shall update on a quarterly basis, all of the following regarding the funds in the State Health Facilities Citations Penalties Account and the Federal Health Facilities Citations Penalties Account:

(1) The specific sources of funds deposited into the account.

(2) The amount of funds in the account that have not been allocated.

(3) A detailed description of how funds in the account have been allocated and expended, including, but not limited to, the names of any persons or entities that received the funds, the amount of any salaries paid to temporary managers, and a description of any equipment purchased with the funds. However, the description shall not include the name of any residents.

CHAPTER 546

An act to add Chapter 1.57 (commencing with Section 5095.50) to Division 5 of the Public Resources Code, relating to parks.

[Approved by Governor October 12, 2007. Filed with Secretary of State October 12, 2007.]

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) The Central Valley is home to several of the fastest growing counties and communities in the state. The number of residents in the Central Valley is projected to grow from 6.3 million in 2005 to close to 12 million by 2040. With this increase in population will come a corresponding increase in the need for open space and for parks and recreational resources.

(b) Providing access to parks, open space, and outdoor recreational opportunities is key to preserving the quality of life for Central Valley residents. Access to such services is fundamental to the physical, mental, social, and emotional well-being of children, youth, and adults.

(c) The Department of Parks and Recreation's Central Valley Vision documents the serious lack of existing park and recreational services in the Central Valley to meet the needs of the region's growing population.

(d) Park and recreation service providers in the Central Valley, compared to other areas of the state, have received significantly less park bond funding and other financial support. The Central Valley is the largest geographically identifiable region in the state with the greatest unmet need for park services.

(e) Through data collection and public input the Department of Parks and Recreation has determined that there are significant resource protection and recreation opportunities in the Central Valley through which the department could better meet the needs of Central Valley residents.

(f) The Central Valley also contains important natural, cultural, and historical resources that are at risk of being lost to increased growth and development, including, but not limited to, riparian and wetland habitats, blue oak and sycamore woodlands, Native American sites, and cultural and historical resources related to California's agriculture and the many contributions of California immigrants.

(g) The rapid increase in population growth and development in the Central Valley means that the state must act in a timely manner to acquire and protect these resources before they are lost.

(h) Therefore, it is the intent of the Legislature that the Department of Parks and Recreation develop a detailed plan for implementation of the Central Valley Vision.

SEC. 2. Chapter 1.57 (commencing with Section 5095.50) is added to Division 5 of the Public Resources Code, to read:

Chapter 1.57. Central Valley Vision

5095.50. For purposes of this chapter, the following definitions apply:

(a) "Central Valley" means the geographic region extending from approximately the City of Redding in the north to the Tehachapi

Mountains in the south, and from the valley floor up to 2,000 feet elevation along the coastal range in the west and the Sierra Nevada range in the east.

(b) "Plan" means the detailed plan of implementation developed by the department for its Central Valley Vision.

5095.51. The department shall develop a detailed plan of implementation for its Central Valley Vision. The plan shall identify and prioritize specific sites and projects for acquisition and development in the Cental Valley, based on the following objectives:

(a) Expansion of resource protection and access to recreational opportunities at existing state parks and other public lands.

(b) Acquisition of lands with important natural, cultural, and recreational values, focusing on lands that link state parks with other public lands, particularly along water corridors.

(c) Preservation and interpretation of historical and cultural resources.

(d) Expansion of interpretive and recreational programs and opportunities in state park units.

5095.52. To the extent feasible, the plan shall do all of the following:

(a) Identify specific opportunities and priorities for acquisition and development of new and existing parks and recreational opportunities, with priority given to the following:

(1) Areas with significant or threatened natural resource values, as blue oak and sycamore woodlands, riparian and wetland areas, and native grasslands.

(2) Areas along river corridors and other water bodies, and in the Sacramento/San Joaquin Delta.

(3) Areas that can be linked with other state park units or public lands, providing natural corridors and linkages for wildlife and trails.

(4) Areas with unique California cultural and historical values.

(5) Areas with the capacity to support recreational activities for which there is a demonstrated unmet public interest and demand.

(b) Expand opportunities and facilities for multiple and diverse recreational activities, based on identified public interest and demand.

(c) Expand educational and interpretive services and facilities, focusing on the unique cultural and historical resources of the Central Valley.

5095.53. The plan shall include a specific timeline for implementation. By January 1, 2009, the department shall report to the Legislature on the plan and timeline for implementation of the plan.

5095.54. This chapter shall be implemented to the extent that funds are appropriated pursuant to subdivision (a) of Section 75063 or any other source.

CHAPTER 547

An act to add and repeal Section 44002.1 of the Public Resources Code, relating to solid waste.

[Approved by Governor October 12, 2007. Filed with Secretary of State October 12, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 44002.1 is added to the Public Resources Code, to read:

44002.1. (a) The Legislature finds and declares all of the following:

(1) New trends in solid waste handling and collection practices, such as single-stream collection of recyclable materials, coupled with the regulations adopted by the board that govern solid waste transfer or processing stations and composting facilities, have resulted in the failure of a substantial number of persons carrying out previously unregulated recycling, solid waste handling, and composting activities, to comply with existing law.

(2) As cities and counties undertake greater efforts to increase the diversion of solid waste from landfills, the board anticipates that many new transfer and processing stations and composting facilities will commence operation in California within the next two to five years.

(3) To address these trends, it is necessary to provide a temporary permitting scheme to enable the operators of existing solid waste facilities to obtain temporary permits more quickly than is possible under existing law, in order to protect the public health and safety and the environment.

(b) The board shall adopt emergency regulations pursuant to subdivision (d) to authorize an enforcement agency, upon the board's concurrence, to issue a temporary solid waste facilities permit to a person operating a solid waste transfer or processing station or a composting facility, that, as of January 1, 2008, is required under this division and the regulations adopted by the board pursuant to this division to obtain a solid waste facilities permit, but for which a permit has not been obtained. The regulations adopted by the board shall include all of the following requirements:

(1) That a person desiring to obtain a temporary solid waste facilities permit submit a complete and correct application for the permit to the enforcement agency having jurisdiction no later than 60 days from the effective date of the regulations.

(2) That the date by which a holder of a temporary solid waste facilities permit shall obtain a permanent solid waste facilities permit from the enforcement agency having jurisdiction, or cease the activities for which a solid waste facilities permit is required, be on or before June 30, 2010.

(3) That a facility covered under a temporary solid waste facilities permit have been in operation on or before January 1, 2007.

(4) That the owner or operator of a facility covered under a temporary solid waste facilities permit agree to allow the facility to be inspected, at least monthly, by the enforcement agency.

(c) (1) An enforcement agency shall diligently notify the operators of all facilities within its jurisdiction of the availability of temporary solid waste facilities permits under the regulations adopted pursuant to this section.

(2) The board shall expeditiously review and act on a proposed temporary solid waste facilities permit submitted to it by an enforcement agency. Upon the request of an enforcement agency, the board shall provide assistance to the enforcement agency to expeditiously process applications for temporary solid waste facilities permits.

(d) The regulations adopted by the board pursuant to this section shall be adopted as emergency regulations and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, or general welfare. The board shall file the emergency regulations with the Office of Administrative Law at the earliest feasible date or March 1, 2008, whichever date is earlier. Notwithstanding subdivision (e) of Section 11346.1 of the Government Code, any emergency regulations adopted by the board pursuant to this section shall remain in effect until July 1, 2010, and on that date shall become inoperative.

(e) This section shall become inoperative on July 1, 2010, and, as of January 1, 2011, is repealed, unless a later enacted statute that is enacted before January 1, 2010, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated

by this act, within the meaning of Section 17556 of the Government Code.

CHAPTER 548

An act to add Section 31410 to the Public Resources Code, relating to coastal resources.

[Approved by Governor October 12, 2007. Filed with Secretary of State October 12, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 31410 is added to the Public Resources Code, to read:

31410. (a) That portion of the Ma-le'l Dunes in Humboldt County that is part of the California Coastal Trail and is under the jurisdiction of the conservancy is hereby designated and shall be known as the Senator Wesley Chesbro Coastal Trail.

(b) After the date on which Wesley Chesbro ceases his service in the Legislature or on January 1, 2009, whichever occurs later, the conservancy shall erect appropriate signage, upon receipt of funding as described in subdivision (c), to reflect the designation made by this section and shall cause all directories and other publications concerning the California Coastal Trail to reflect the designation as the publications are periodically revised.

(c) The costs of the signage shall be funded by parties who request the conservancy to erect that signage pursuant to this section.

CHAPTER 549

An act to amend Section 798.73 of the Civil Code, relating to mobilehomes.

[Approved by Governor October 12, 2007. Filed with Secretary of State October 12, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 798.73 of the Civil Code is amended to read:

798.73. The management may not require the removal of a mobilehome from the park in the event of its sale to a third party during the term of the homeowner's rental agreement or in the 60 days following the initial notice required by paragraph (1) of subdivision (b) of Section 798.55. However, in the event of a sale to a third party, in order to upgrade the quality of the park, the management may require that a mobilehome be removed from the park where:

(a) It is not a "mobilehome" within the meaning of Section 798.3.

(b) It is more than 20 years old, or more than 25 years old if manufactured after September 15, 1971, and is 20 feet wide or more, and the mobilehome does not comply with the health and safety standards provided in Sections 18550, 18552, and 18605 of the Health and Safety Code and the regulations established thereunder, as determined following an inspection by the appropriate enforcement agency, as defined in Section 18207 of the Health and Safety Code.

(c) The mobilehome is more than 17 years old, or more than 25 years old if manufactured after September 15, 1971, and is less than 20 feet wide, and the mobilehome does not comply with the construction and safety standards under Sections 18550, 18552, and 18605 of the Health and Safety Code and the regulations established thereunder, as determined following an inspection by the appropriate enforcement agency, as defined in Section 18207 of the Health and Safety Code.

(d) It is in a significantly rundown condition or in disrepair, as determined by the general condition of the mobilehome and its acceptability to the health and safety of the occupants and to the public, exclusive of its age. The management shall use reasonable discretion in determining the general condition of the mobilehome and its accessory structures. The management shall bear the burden of demonstrating that the mobilehome is in a significantly rundown condition or in disrepair. The management of the park may not require repairs or improvements to the park space or property owned by the management, except for damage caused by the actions or negligence of the homeowner or an agent of the homeowner.

(e) The management shall not require a mobilehome to be removed from the park, pursuant to this section, unless the management has provided to the homeowner notice particularly specifying the condition that permits the removal of the mobilehome.

CHAPTER 550

An act to amend Sections 125090 and 125107 of, and to repeal and add Section 120990 of, the Health and Safety Code, relating to HIV/AIDS.

[Approved by Governor October 12, 2007. Filed with Secretary of State October 12, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 120990 of the Health and Safety Code is repealed.

SEC. 2. Section 120990 is added to the Health and Safety Code, to read:

120990. (a) Prior to ordering a test that identifies infection with HIV, a medical care provider shall inform the patient that the test is planned, provide information about the test, inform the patient that there are numerous treatment options available for a patient who tests positive for HIV and that a person who tests negative for HIV should continue to be routinely tested, and advise the patient that he or she has the right to decline the test. If a patient declines the test, the medical care provider shall note that fact in the patient's medical file.

(b) Subdivision (a) shall not apply when a person independently requests an HIV test from the provider.

(c) Except as provided in subdivision (a), no person shall administer a test for HIV infection unless the person being tested or his or her parent, guardian, conservator, or other person specified in Section 121020, signs a written statement documenting the person's informed consent to the test. This requirement does not apply to such a test performed at an alternative site pursuant to Sections 120890 or 120895. Nothing in this section shall be construed to allow a person to administer a test for HIV unless that person is otherwise permitted under current law to administer an HIV test.

(d) Nothing in this section shall preclude a medical examiner or other physician from ordering or performing a test to detect HIV on a cadaver when an autopsy is performed or body parts are donated pursuant to the Uniform Anatomical Gift Act (Chapter 3.5 (commencing with Section 7150) of Part 1 of Division 7).

(e) (1) The requirements of subdivision (c) do not apply when blood is tested as part of a scientific investigation conducted either by a medical researcher operating under the approval of an institutional review board or by the department, in accordance with a protocol for unlinked testing.

(2) For purposes of this subdivision, "unlinked testing" means blood samples that are obtained anonymously, or that have the name or identifying information of the individual who provided the sample removed in a manner that prevents the test results from ever being linked to a particular individual who participated in the research or study.

(f) Nothing in this section shall be construed to permit any person to unlawfully disclose an individual's HIV status, or to otherwise violate provisions of Section 54 of the Civil Code, the Americans With Disabilities Act of 1990 (Public Law 101-336), or the California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3 of Title 2 of the Government Code), which prohibit discrimination against individuals who are living with HIV, or who test positive for HIV, or are presumed to be HIV-positive.

SEC. 3. Section 125090 of the Health and Safety Code is amended to read:

125090. (a) Subdivision (a) of Section 125085 shall not be applicable if the licensed physician and surgeon or other person engaged in the prenatal care of a pregnant woman or attending the woman at the time of delivery has knowledge of the woman's blood type and accepts responsibility for the accuracy of the information.

(b) Subdivision (b) of Section 125085 shall not be applicable if the licensed physician and surgeon or other person engaged in the prenatal care of a pregnant woman or attending the woman at the time of delivery has knowledge that the woman has previously been determined to be chronically infected with hepatitis B or human immunodeficiency virus (HIV) and accepts responsibility for the accuracy of the information.

(c) Prior to obtaining a blood specimen collected pursuant to subdivision (b) of Section 125085 or this section, the physician and surgeon or other person engaged in the prenatal care of a pregnant woman, or attending the woman at the time of labor or delivery, shall ensure that the woman is informed of the intent to perform a test for HIV infection, the routine nature of the test, the purpose of the testing, the risks and benefits of the test, the risk of perinatal transmission of HIV, that approved treatments are known to decrease the risk of perinatal transmission of HIV, and that the woman has a right to decline this testing.

(d) If, during the final review of standard of prenatal care medical tests, the medical records of the pregnant woman do not document a test for rhesus (Rh) antibody blood type, a test for hepatitis B, or a test for HIV, the physician and surgeon or other person engaged in the prenatal care of the woman, or attending the woman at the time of labor or delivery, shall obtain a blood specimen from the woman for the tests that have not been documented. Prior to obtaining this blood specimen,

the provider shall ensure that the woman is informed of the intent to perform the tests that have not been documented prior to this visit, including a test for HIV infection, the routine nature of the test, the purpose of the testing, the risks and benefits of the test, the risk of perinatal transmission of HIV, that approved treatments are known to decrease the risk of perinatal transmission of HIV, and that the woman has a right to decline the HIV test. The blood shall be tested by a method that will ensure the earliest possible results, and the results shall be reported to both of the following:

(1) The physician and surgeon or other person engaged in the prenatal care of the woman or attending the woman at the time of delivery.

(2) The woman tested.

(e) After the results of the tests done pursuant to this section and Section 125085 have been received, the physician and surgeon or other person engaged in the prenatal care of the pregnant woman or attending the woman at the time of labor, delivery, or post partum care at the time the results are received shall ensure that the woman receives information and counseling, as appropriate, to explain the results and the implications for the mother's and infant's health, including any followup testing and care that are indicated. If the woman tests positive for HIV antibodies, she shall also receive, whenever possible, a referral to a provider, provider group, or institution specializing in prenatal and post partum care for HIV-positive women and their infants. Health care providers are also strongly encouraged to seek consultation with HIV specialists who provide care for pregnant and post partum HIV-positive women and their infants.

(f) The provisions of Section 125107 for counseling are equally applicable to every pregnant patient covered by subdivisions (c) and (d).

(g) Nothing in this section shall be construed to permit a licensed physician and surgeon or other person engaged in the prenatal care of a pregnant woman or attending the woman at the time of delivery to unlawfully disclose an individual's HIV status, or to otherwise violate provisions of Section 54 of the Civil Code, the Americans With Disabilities Act of 1990 (Public Law 101-336), or the California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3 of Title 2 of the Government Code), which prohibit discrimination against individuals who are living with HIV, or who test positive for HIV, or are presumed to be HIV-positive.

SEC. 4. Section 125107 of the Health and Safety Code is amended to read:

125107. (a) For purposes of this section, "prenatal care provider" means a licensed health care professional providing prenatal care within his or her lawful scope of practice. This definition shall not include a

licensed health care professional who provides care other than prenatal care to a pregnant patient.

(b) The prenatal care provider primarily responsible for providing prenatal care to a pregnant patient shall offer human immunodeficiency virus (HIV) information and counseling to every pregnant patient. This information and counseling shall include, but shall not be limited to, all of the following:

(1) A description of the modes of HIV transmission.

(2) A discussion of risk reduction behavior modifications including methods to reduce the risk of perinatal transmission.

(3) If appropriate, referral information to other HIV prevention and psychosocial services including anonymous and confidential test sites approved by the Office of AIDS.

(c) Nothing in this section shall be construed to require mandatory testing. Any documentation or disclosure of HIV-related information shall be made in accordance with Chapter 7 (commencing with Section 120975) of Part 4 of Division 105 regarding confidentiality and informed consent.

(d) Nothing in this section shall be construed to permit a prenatal care provider to unlawfully disclose an individual's HIV status, or to otherwise violate provisions of Section 54 of the Civil Code, or the Americans With Disabilities Act of 1990 (Public Law 101-336), or the California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3 of Title 2 of the Government Code), which prohibit discrimination against individuals who are living with HIV, or who test positive for HIV, or are presumed to be HIV-positive.

CHAPTER 551

An act to amend Section 1107 of the Ojai Basin Groundwater Management Agency Act (Chapter 750 of the Statutes of 1991), relating to water.

[Approved by Governor October 12, 2007. Filed with Secretary of State October 12, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 1107 of the Ojai Basin Groundwater Management Agency Act (Chapter 750 of the Statutes of 1991) is amended to read:

Sec. 1107. (a) Except as provided in subdivision (b), the groundwater extraction charge shall not exceed seven dollars and fifty cents ($7.50) per acre-foot pumped per year.

(b) The board may establish a groundwater extraction charge maximum limitation that exceeds the amount specified in subdivision (a) if both of the following are true:

(1) The imposition of the groundwater extraction charge is approved by a majority vote of the operators that are subject to the charge, with the votes weighted based on the volume of water extracted by each operator. Votes shall be calculated based on a three-year average of production from the basin, as determined by payments of groundwater extraction charges to the agency during the three years immediately preceding the vote, except that for operators with facilities in use less than three years, votes shall be weighted based upon a single-year average if the facility has been in use less than two years, or weighted based upon a two-year average if the facility has been in use more than two years and less than three years. Each operator shall be entitled to one vote for each averaged acre-foot of groundwater pumped. A change in ownership shall not affect the history of production from any well.

(2) The groundwater extraction charge does not exceed twenty-five dollars ($25) per acre-foot pumped per year.

CHAPTER 552

An act to amend Section 56.10 of, and to add Section 56.103 to, the Civil Code, relating to confidential information.

[Approved by Governor October 12, 2007. Filed with Secretary of State October 12, 2007.]

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) The State of California is responsible for the health care needs of children and youth who have been removed from their homes due to abuse, neglect, or delinquency, and for ensuring that their health care and mental health needs are met. Access to health care and mental health records is essential for ensuring that health care and mental health needs of foster children and youth are being met.

(b) A lack of clarity about who may be authorized to share health care and mental health records with caregivers of children and youth in the state's care often results in inadequate health care information being

available to caregivers, which jeopardizes the health of the children and youth in the state's care.

(c) It is the intent of the Legislature to improve the sharing of health care and mental health information concerning children and youth in the state's care by eliminating barriers caused by a lack of clarity in existing law regarding who may be authorized to share health care and mental health information. It is the further intent of the Legislature not to expand existing law and to clarify that existing provisions regarding confidentiality of medical records and the federal Health Insurance Portability and Accountability Act (HIPAA) authorizes psychotherapists to provide health care and mental health information to caregivers of children and youth in foster care to facilitate providing health care and mental health care that meets the needs of these children and youth.

SEC. 2. Section 56.10 of the Civil Code is amended to read:

56.10. (a) No provider of health care, health care service plan, or contractor shall disclose medical information regarding a patient of the provider of health care or an enrollee or subscriber of a health care service plan without first obtaining an authorization, except as provided in subdivision (b) or (c).

(b) A provider of health care, a health care service plan, or a contractor shall disclose medical information if the disclosure is compelled by any of the following:

(1) By a court pursuant to an order of that court.

(2) By a board, commission, or administrative agency for purposes of adjudication pursuant to its lawful authority.

(3) By a party to a proceeding before a court or administrative agency pursuant to a subpoena, subpoena duces tecum, notice to appear served pursuant to Section 1987 of the Code of Civil Procedure, or any provision authorizing discovery in a proceeding before a court or administrative agency.

(4) By a board, commission, or administrative agency pursuant to an investigative subpoena issued under Article 2 (commencing with Section 11180) of Chapter 2 of Part 1 of Division 3 of Title 2 of the Government Code.

(5) By an arbitrator or arbitration panel, when arbitration is lawfully requested by either party, pursuant to a subpoena duces tecum issued under Section 1282.6 of the Code of Civil Procedure, or any other provision authorizing discovery in a proceeding before an arbitrator or arbitration panel.

(6) By a search warrant lawfully issued to a governmental law enforcement agency.

(7) By the patient or the patient's representative pursuant to Chapter 1 (commencing with Section 123100) of Part 1 of Division 106 of the Health and Safety Code.

(8) By a coroner, when requested in the course of an investigation by the coroner's office for the purpose of identifying the decedent or locating next of kin, or when investigating deaths that may involve public health concerns, organ or tissue donation, child abuse, elder abuse, suicides, poisonings, accidents, sudden infant deaths, suspicious deaths, unknown deaths, or criminal deaths, or when otherwise authorized by the decedent's representative. Medical information requested by the coroner under this paragraph shall be limited to information regarding the patient who is the decedent and who is the subject of the investigation and shall be disclosed to the coroner without delay upon request.

(9) When otherwise specifically required by law.

(c) A provider of health care or a health care service plan may disclose medical information as follows:

(1) The information may be disclosed to providers of health care, health care service plans, contractors, or other health care professionals or facilities for purposes of diagnosis or treatment of the patient. This includes, in an emergency situation, the communication of patient information by radio transmission or other means between emergency medical personnel at the scene of an emergency, or in an emergency medical transport vehicle, and emergency medical personnel at a health facility licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code.

(2) The information may be disclosed to an insurer, employer, health care service plan, hospital service plan, employee benefit plan, governmental authority, contractor, or any other person or entity responsible for paying for health care services rendered to the patient, to the extent necessary to allow responsibility for payment to be determined and payment to be made. If (A) the patient is, by reason of a comatose or other disabling medical condition, unable to consent to the disclosure of medical information and (B) no other arrangements have been made to pay for the health care services being rendered to the patient, the information may be disclosed to a governmental authority to the extent necessary to determine the patient's eligibility for, and to obtain, payment under a governmental program for health care services provided to the patient. The information may also be disclosed to another provider of health care or health care service plan as necessary to assist the other provider or health care service plan in obtaining payment for health care services rendered by that provider of health care or health care service plan to the patient.

(3) The information may be disclosed to a person or entity that provides billing, claims management, medical data processing, or other administrative services for providers of health care or health care service plans or for any of the persons or entities specified in paragraph (2). However, no information so disclosed shall be further disclosed by the recipient in any way that would violate this part.

(4) The information may be disclosed to organized committees and agents of professional societies or of medical staffs of licensed hospitals, licensed health care service plans, professional standards review organizations, independent medical review organizations and their selected reviewers, utilization and quality control peer review organizations as established by Congress in Public Law 97-248 in 1982, contractors, or persons or organizations insuring, responsible for, or defending professional liability that a provider may incur, if the committees, agents, health care service plans, organizations, reviewers, contractors, or persons are engaged in reviewing the competence or qualifications of health care professionals or in reviewing health care services with respect to medical necessity, level of care, quality of care, or justification of charges.

(5) The information in the possession of a provider of health care or health care service plan may be reviewed by a private or public body responsible for licensing or accrediting the provider of health care or health care service plan. However, no patient-identifying medical information may be removed from the premises except as expressly permitted or required elsewhere by law, nor shall that information be further disclosed by the recipient in any way that would violate this part.

(6) The information may be disclosed to the county coroner in the course of an investigation by the coroner's office when requested for all purposes not included in paragraph (8) of subdivision (b).

(7) The information may be disclosed to public agencies, clinical investigators, including investigators conducting epidemiologic studies, health care research organizations, and accredited public or private nonprofit educational or health care institutions for bona fide research purposes. However, no information so disclosed shall be further disclosed by the recipient in any way that would disclose the identity of a patient or violate this part.

(8) A provider of health care or health care service plan that has created medical information as a result of employment-related health care services to an employee conducted at the specific prior written request and expense of the employer may disclose to the employee's employer that part of the information that:

(A) Is relevant in a lawsuit, arbitration, grievance, or other claim or challenge to which the employer and the employee are parties and in

which the patient has placed in issue his or her medical history, mental or physical condition, or treatment, provided that information may only be used or disclosed in connection with that proceeding.

(B) Describes functional limitations of the patient that may entitle the patient to leave from work for medical reasons or limit the patient's fitness to perform his or her present employment, provided that no statement of medical cause is included in the information disclosed.

(9) Unless the provider of health care or health care service plan is notified in writing of an agreement by the sponsor, insurer, or administrator to the contrary, the information may be disclosed to a sponsor, insurer, or administrator of a group or individual insured or uninsured plan or policy that the patient seeks coverage by or benefits from, if the information was created by the provider of health care or health care service plan as the result of services conducted at the specific prior written request and expense of the sponsor, insurer, or administrator for the purpose of evaluating the application for coverage or benefits.

(10) The information may be disclosed to a health care service plan by providers of health care that contract with the health care service plan and may be transferred among providers of health care that contract with the health care service plan, for the purpose of administering the health care service plan. Medical information may not otherwise be disclosed by a health care service plan except in accordance with the provisions of this part.

(11) Nothing in this part shall prevent the disclosure by a provider of health care or a health care service plan to an insurance institution, agent, or support organization, subject to Article 6.6 (commencing with Section 791) of Part 2 of Division 1 of the Insurance Code, of medical information if the insurance institution, agent, or support organization has complied with all requirements for obtaining the information pursuant to Article 6.6 (commencing with Section 791) of Part 2 of Division 1 of the Insurance Code.

(12) The information relevant to the patient's condition and care and treatment provided may be disclosed to a probate court investigator engaged in determining the need for an initial conservatorship or continuation of an existent conservatorship, if the patient is unable to give informed consent, or to a probate court investigator, probation officer, or domestic relations investigator engaged in determining the need for an initial guardianship or continuation of an existent guardianship.

(13) The information may be disclosed to an organ procurement organization or a tissue bank processing the tissue of a decedent for transplantation into the body of another person, but only with respect to the donating decedent, for the purpose of aiding the transplant. For the

purpose of this paragraph, the terms "tissue bank" and "tissue" have the same meaning as defined in Section 1635 of the Health and Safety Code.

(14) The information may be disclosed when the disclosure is otherwise specifically authorized by law, including, but not limited to, the voluntary reporting, either directly or indirectly, to the federal Food and Drug Administration of adverse events related to drug products or medical device problems.

(15) Basic information, including the patient's name, city of residence, age, sex, and general condition, may be disclosed to a state or federally recognized disaster relief organization for the purpose of responding to disaster welfare inquiries.

(16) The information may be disclosed to a third party for purposes of encoding, encrypting, or otherwise anonymizing data. However, no information so disclosed shall be further disclosed by the recipient in any way that would violate this part, including the unauthorized manipulation of coded or encrypted medical information that reveals individually identifiable medical information.

(17) For purposes of disease management programs and services as defined in Section 1399.901 of the Health and Safety Code, information may be disclosed as follows: (A) to an entity contracting with a health care service plan or the health care service plan's contractors to monitor or administer care of enrollees for a covered benefit, if the disease management services and care are authorized by a treating physician, or (B) to a disease management organization, as defined in Section 1399.900 of the Health and Safety Code, that complies fully with the physician authorization requirements of Section 1399.902 of the Health and Safety Code, if the health care service plan or its contractor provides or has provided a description of the disease management services to a treating physician or to the health care service plan's or contractor's network of physicians. Nothing in this paragraph shall be construed to require physician authorization for the care or treatment of the adherents of a well-recognized church or religious denomination who depend solely upon prayer or spiritual means for healing in the practice of the religion of that church or denomination.

(18) The information may be disclosed, as permitted by state and federal law or regulation, to a local health department for the purpose of preventing or controlling disease, injury, or disability, including, but not limited to, the reporting of disease, injury, vital events, including, but not limited to, birth or death, and the conduct of public health surveillance, public health investigations, and public health interventions, as authorized or required by state or federal law or regulation.

(19) The information may be disclosed as described in Section 56.103.

(d) Except to the extent expressly authorized by the patient or enrollee or subscriber or as provided by subdivisions (b) and (c), no provider of health care, health care service plan, contractor, or corporation and its subsidiaries and affiliates shall intentionally share, sell, use for marketing, or otherwise use any medical information for any purpose not necessary to provide health care services to the patient.

(e) Except to the extent expressly authorized by the patient or enrollee or subscriber or as provided by subdivisions (b) and (c), no contractor or corporation and its subsidiaries and affiliates shall further disclose medical information regarding a patient of the provider of health care or an enrollee or subscriber of a health care service plan or insurer or self-insured employer received under this section to a person or entity that is not engaged in providing direct health care services to the patient or his or her provider of health care or health care service plan or insurer or self-insured employer.

SEC. 2.5. Section 56.10 of the Civil Code is amended to read:

56.10. (a) No provider of health care, health care service plan, or contractor shall disclose medical information regarding a patient of the provider of health care or an enrollee or subscriber of a health care service plan without first obtaining an authorization, except as provided in subdivision (b) or (c).

(b) A provider of health care, a health care service plan, or a contractor shall disclose medical information if the disclosure is compelled by any of the following:

(1) By a court pursuant to an order of that court.

(2) By a board, commission, or administrative agency for purposes of adjudication pursuant to its lawful authority.

(3) By a party to a proceeding before a court or administrative agency pursuant to a subpoena, subpoena duces tecum, notice to appear served pursuant to Section 1987 of the Code of Civil Procedure, or any provision authorizing discovery in a proceeding before a court or administrative agency.

(4) By a board, commission, or administrative agency pursuant to an investigative subpoena issued under Article 2 (commencing with Section 11180) of Chapter 2 of Part 1 of Division 3 of Title 2 of the Government Code.

(5) By an arbitrator or arbitration panel, when arbitration is lawfully requested by either party, pursuant to a subpoena duces tecum issued under Section 1282.6 of the Code of Civil Procedure, or any other provision authorizing discovery in a proceeding before an arbitrator or arbitration panel.

(6) By a search warrant lawfully issued to a governmental law enforcement agency.

(7) By the patient or the patient's representative pursuant to Chapter 1 (commencing with Section 123100) of Part 1 of Division 106 of the Health and Safety Code.

(8) By a coroner, when requested in the course of an investigation by the coroner's office for the purpose of identifying the decedent or locating next of kin, or when investigating deaths that may involve public health concerns, organ or tissue donation, child abuse, elder abuse, suicides, poisonings, accidents, sudden infant deaths, suspicious deaths, unknown deaths, or criminal deaths, or when otherwise authorized by the decedent's representative. Medical information requested by the coroner under this paragraph shall be limited to information regarding the patient who is the decedent and who is the subject of the investigation and shall be disclosed to the coroner without delay upon request.

(9) When otherwise specifically required by law.

(c) A provider of health care or a health care service plan may disclose medical information as follows:

(1) The information may be disclosed to providers of health care, health care service plans, contractors, or other health care professionals or facilities for purposes of diagnosis or treatment of the patient. This includes, in an emergency situation, the communication of patient information by radio transmission or other means between emergency medical personnel at the scene of an emergency, or in an emergency medical transport vehicle, and emergency medical personnel at a health facility licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code.

(2) The information may be disclosed to an insurer, employer, health care service plan, hospital service plan, employee benefit plan, governmental authority, contractor, or any other person or entity responsible for paying for health care services rendered to the patient, to the extent necessary to allow responsibility for payment to be determined and payment to be made. If (A) the patient is, by reason of a comatose or other disabling medical condition, unable to consent to the disclosure of medical information and (B) no other arrangements have been made to pay for the health care services being rendered to the patient, the information may be disclosed to a governmental authority to the extent necessary to determine the patient's eligibility for, and to obtain, payment under a governmental program for health care services provided to the patient. The information may also be disclosed to another provider of health care or health care service plan as necessary to assist the other provider or health care service plan in obtaining payment for health care services rendered by that provider of health care or health care service plan to the patient.

(3) The information may be disclosed to a person or entity that provides billing, claims management, medical data processing, or other administrative services for providers of health care or health care service plans or for any of the persons or entities specified in paragraph (2). However, no information so disclosed shall be further disclosed by the recipient in any way that would violate this part.

(4) The information may be disclosed to organized committees and agents of professional societies or of medical staffs of licensed hospitals, licensed health care service plans, professional standards review organizations, independent medical review organizations and their selected reviewers, utilization and quality control peer review organizations as established by Congress in Public Law 97-248 in 1982, contractors, or persons or organizations insuring, responsible for, or defending professional liability that a provider may incur, if the committees, agents, health care service plans, organizations, reviewers, contractors, or persons are engaged in reviewing the competence or qualifications of health care professionals or in reviewing health care services with respect to medical necessity, level of care, quality of care, or justification of charges.

(5) The information in the possession of a provider of health care or health care service plan may be reviewed by a private or public body responsible for licensing or accrediting the provider of health care or health care service plan. However, no patient-identifying medical information may be removed from the premises except as expressly permitted or required elsewhere by law, nor shall that information be further disclosed by the recipient in any way that would violate this part.

(6) The information may be disclosed to the county coroner in the course of an investigation by the coroner's office when requested for all purposes not included in paragraph (8) of subdivision (b).

(7) The information may be disclosed to public agencies, clinical investigators, including investigators conducting epidemiologic studies, health care research organizations, and accredited public or private nonprofit educational or health care institutions for bona fide research purposes. However, no information so disclosed shall be further disclosed by the recipient in any way that would disclose the identity of a patient or violate this part.

(8) A provider of health care or health care service plan that has created medical information as a result of employment-related health care services to an employee conducted at the specific prior written request and expense of the employer may disclose to the employee's employer that part of the information that:

(A) Is relevant in a lawsuit, arbitration, grievance, or other claim or challenge to which the employer and the employee are parties and in

which the patient has placed in issue his or her medical history, mental or physical condition, or treatment, provided that information may only be used or disclosed in connection with that proceeding.

(B) Describes functional limitations of the patient that may entitle the patient to leave from work for medical reasons or limit the patient's fitness to perform his or her present employment, provided that no statement of medical cause is included in the information disclosed.

(9) Unless the provider of health care or health care service plan is notified in writing of an agreement by the sponsor, insurer, or administrator to the contrary, the information may be disclosed to a sponsor, insurer, or administrator of a group or individual insured or uninsured plan or policy that the patient seeks coverage by or benefits from, if the information was created by the provider of health care or health care service plan as the result of services conducted at the specific prior written request and expense of the sponsor, insurer, or administrator for the purpose of evaluating the application for coverage or benefits.

(10) The information may be disclosed to a health care service plan by providers of health care that contract with the health care service plan and may be transferred among providers of health care that contract with the health care service plan, for the purpose of administering the health care service plan. Medical information may not otherwise be disclosed by a health care service plan except in accordance with the provisions of this part.

(11) Nothing in this part shall prevent the disclosure by a provider of health care or a health care service plan to an insurance institution, agent, or support organization, subject to Article 6.6 (commencing with Section 791) of Part 2 of Division 1 of the Insurance Code, of medical information if the insurance institution, agent, or support organization has complied with all requirements for obtaining the information pursuant to Article 6.6 (commencing with Section 791) of Part 2 of Division 1 of the Insurance Code.

(12) The information relevant to the patient's condition and care and treatment provided may be disclosed to a probate court investigator engaged in determining the need for an initial conservatorship or continuation of an existent conservatorship, if the patient is unable to give informed consent, or to a probate court investigator, probation officer, or domestic relations investigator engaged in determining the need for an initial guardianship or continuation of an existent guardianship.

(13) The information may be disclosed to an organ procurement organization or a tissue bank processing the tissue of a decedent for transplantation into the body of another person, but only with respect to the donating decedent, for the purpose of aiding the transplant. For the

purpose of this paragraph, the terms "tissue bank" and "tissue" have the same meaning as defined in Section 1635 of the Health and Safety Code.

(14) The information may be disclosed when the disclosure is otherwise specifically authorized by law, including, but not limited to, the voluntary reporting, either directly or indirectly, to the federal Food and Drug Administration of adverse events related to drug products or medical device problems.

(15) Basic information, including the patient's name, city of residence, age, sex, and general condition, may be disclosed to a state or federally recognized disaster relief organization for the purpose of responding to disaster welfare inquiries.

(16) The information may be disclosed to a third party for purposes of encoding, encrypting, or otherwise anonymizing data. However, no information so disclosed shall be further disclosed by the recipient in any way that would violate this part, including the unauthorized manipulation of coded or encrypted medical information that reveals individually identifiable medical information.

(17) For purposes of disease management programs and services as defined in Section 1399.901 of the Health and Safety Code, information may be disclosed as follows: (A) to an entity contracting with a health care service plan or the health care service plan's contractors to monitor or administer care of enrollees for a covered benefit, if the disease management services and care are authorized by a treating physician, or (B) to a disease management organization, as defined in Section 1399.900 of the Health and Safety Code, that complies fully with the physician authorization requirements of Section 1399.902 of the Health and Safety Code, if the health care service plan or its contractor provides or has provided a description of the disease management services to a treating physician or to the health care service plan's or contractor's network of physicians. Nothing in this paragraph shall be construed to require physician authorization for the care or treatment of the adherents of a well-recognized church or religious denomination who depend solely upon prayer or spiritual means for healing in the practice of the religion of that church or denomination.

(18) The information may be disclosed, as permitted by state and federal law or regulation, to a local health department for the purpose of preventing or controlling disease, injury, or disability, including, but not limited to, the reporting of disease, injury, vital events, including, but not limited to, birth or death, and the conduct of public health surveillance, public health investigations, and public health interventions, as authorized or required by state or federal law or regulation.

(19) The information may be disclosed, consistent with applicable law and standards of ethical conduct, by a psychotherapist, as defined

in Section 1010 of the Evidence Code, if the psychotherapist, in good faith, believes the disclosure is necessary to prevent or lessen a serious and imminent threat to the health or safety of a reasonably foreseeable victim or victims, and the disclosure is made to a person or persons reasonably able to prevent or lessen the threat, including the target of the threat.

(20) The information may be disclosed as described in Section 56.103.

(d) Except to the extent expressly authorized by the patient or enrollee or subscriber or as provided by subdivisions (b) and (c), no provider of health care, health care service plan, contractor, or corporation and its subsidiaries and affiliates shall intentionally share, sell, use for marketing, or otherwise use any medical information for any purpose not necessary to provide health care services to the patient.

(e) Except to the extent expressly authorized by the patient or enrollee or subscriber or as provided by subdivisions (b) and (c), no contractor or corporation and its subsidiaries and affiliates shall further disclose medical information regarding a patient of the provider of health care or an enrollee or subscriber of a health care service plan or insurer or self-insured employer received under this section to any person or entity that is not engaged in providing direct health care services to the patient or his or her provider of health care or health care service plan or insurer or self-insured employer.

SEC. 2.7. Section 56.10 of the Civil Code is amended to read:

56.10. (a) No provider of health care, health care service plan, or contractor shall disclose medical information regarding a patient of the provider of health care or an enrollee or subscriber of a health care service plan without first obtaining an authorization, except as provided in subdivision (b) or (c).

(b) A provider of health care, a health care service plan, or a contractor shall disclose medical information if the disclosure is compelled by any of the following:

(1) By a court pursuant to an order of that court.

(2) By a board, commission, or administrative agency for purposes of adjudication pursuant to its lawful authority.

(3) By a party to a proceeding before a court or administrative agency pursuant to a subpoena, subpoena duces tecum, notice to appear served pursuant to Section 1987 of the Code of Civil Procedure, or any provision authorizing discovery in a proceeding before a court or administrative agency.

(4) By a board, commission, or administrative agency pursuant to an investigative subpoena issued under Article 2 (commencing with Section 11180) of Chapter 2 of Part 1 of Division 3 of Title 2 of the Government Code.

(5) By an arbitrator or arbitration panel, when arbitration is lawfully requested by either party, pursuant to a subpoena duces tecum issued under Section 1282.6 of the Code of Civil Procedure, or any other provision authorizing discovery in a proceeding before an arbitrator or arbitration panel.

(6) By a search warrant lawfully issued to a governmental law enforcement agency.

(7) By the patient or the patient's representative pursuant to Chapter 1 (commencing with Section 123100) of Part 1 of Division 106 of the Health and Safety Code.

(8) By a coroner, when requested in the course of an investigation by the coroner's office for the purpose of identifying the decedent or locating next of kin, or when investigating deaths that may involve public health concerns, organ or tissue donation, child abuse, elder abuse, suicides, poisonings, accidents, sudden infant deaths, suspicious deaths, unknown deaths, or criminal deaths, or when otherwise authorized by the decedent's representative. Medical information requested by the coroner under this paragraph shall be limited to information regarding the patient who is the decedent and who is the subject of the investigation and shall be disclosed to the coroner without delay upon request.

(9) When otherwise specifically required by law.

(c) A provider of health care or a health care service plan may disclose medical information as follows:

(1) The information may be disclosed to providers of health care, health care service plans, contractors, or other health care professionals or facilities for purposes of diagnosis or treatment of the patient. This includes, in an emergency situation, the communication of patient information by radio transmission or other means between emergency medical personnel at the scene of an emergency, or in an emergency medical transport vehicle, and emergency medical personnel at a health facility licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code.

(2) The information may be disclosed to an insurer, employer, health care service plan, hospital service plan, employee benefit plan, governmental authority, contractor, or any other person or entity responsible for paying for health care services rendered to the patient, to the extent necessary to allow responsibility for payment to be determined and payment to be made. If (A) the patient is, by reason of a comatose or other disabling medical condition, unable to consent to the disclosure of medical information and (B) no other arrangements have been made to pay for the health care services being rendered to the patient, the information may be disclosed to a governmental authority to the extent necessary to determine the patient's eligibility for, and to

obtain, payment under a governmental program for health care services provided to the patient. The information may also be disclosed to another provider of health care or health care service plan as necessary to assist the other provider or health care service plan in obtaining payment for health care services rendered by that provider of health care or health care service plan to the patient.

(3) The information may be disclosed to a person or entity that provides billing, claims management, medical data processing, or other administrative services for providers of health care or health care service plans or for any of the persons or entities specified in paragraph (2). However, no information so disclosed shall be further disclosed by the recipient in any way that would violate this part.

(4) The information may be disclosed to organized committees and agents of professional societies or of medical staffs of licensed hospitals, licensed health care service plans, professional standards review organizations, independent medical review organizations and their selected reviewers, utilization and quality control peer review organizations as established by Congress in Public Law 97-248 in 1982, contractors, or persons or organizations insuring, responsible for, or defending professional liability that a provider may incur, if the committees, agents, health care service plans, organizations, reviewers, contractors, or persons are engaged in reviewing the competence or qualifications of health care professionals or in reviewing health care services with respect to medical necessity, level of care, quality of care, or justification of charges.

(5) The information in the possession of a provider of health care or health care service plan may be reviewed by a private or public body responsible for licensing or accrediting the provider of health care or health care service plan. However, no patient-identifying medical information may be removed from the premises except as expressly permitted or required elsewhere by law, nor shall that information be further disclosed by the recipient in any way that would violate this part.

(6) The information may be disclosed to the county coroner in the course of an investigation by the coroner's office when requested for all purposes not included in paragraph (8) of subdivision (b).

(7) The information may be disclosed to public agencies, clinical investigators, including investigators conducting epidemiologic studies, health care research organizations, and accredited public or private nonprofit educational or health care institutions for bona fide research purposes. However, no information so disclosed shall be further disclosed by the recipient in any way that would disclose the identity of a patient or violate this part.

(8) A provider of health care or health care service plan that has created medical information as a result of employment-related health care services to an employee conducted at the specific prior written request and expense of the employer may disclose to the employee's employer that part of the information that:

(A) Is relevant in a lawsuit, arbitration, grievance, or other claim or challenge to which the employer and the employee are parties and in which the patient has placed in issue his or her medical history, mental or physical condition, or treatment, provided that information may only be used or disclosed in connection with that proceeding.

(B) Describes functional limitations of the patient that may entitle the patient to leave from work for medical reasons or limit the patient's fitness to perform his or her present employment, provided that no statement of medical cause is included in the information disclosed.

(9) Unless the provider of health care or health care service plan is notified in writing of an agreement by the sponsor, insurer, or administrator to the contrary, the information may be disclosed to a sponsor, insurer, or administrator of a group or individual insured or uninsured plan or policy that the patient seeks coverage by or benefits from, if the information was created by the provider of health care or health care service plan as the result of services conducted at the specific prior written request and expense of the sponsor, insurer, or administrator for the purpose of evaluating the application for coverage or benefits.

(10) The information may be disclosed to a health care service plan by providers of health care that contract with the health care service plan and may be transferred among providers of health care that contract with the health care service plan, for the purpose of administering the health care service plan. Medical information may not otherwise be disclosed by a health care service plan except in accordance with the provisions of this part.

(11) Nothing in this part shall prevent the disclosure by a provider of health care or a health care service plan to an insurance institution, agent, or support organization, subject to Article 6.6 (commencing with Section 791) of Part 2 of Division 1 of the Insurance Code, of medical information if the insurance institution, agent, or support organization has complied with all requirements for obtaining the information pursuant to Article 6.6 (commencing with Section 791) of Part 2 of Division 1 of the Insurance Code.

(12) The information relevant to the patient's condition and care and treatment provided may be disclosed to a probate court investigator in the course of any investigation required or authorized in a conservatorship proceeding under the Guardianship-Conservatorship Law as defined in Section 1400 of the Probate Code, or to a probate court investigator,

probation officer, or domestic relations investigator engaged in determining the need for an initial guardianship or continuation of an existent guardianship.

(13) The information may be disclosed to an organ procurement organization or a tissue bank processing the tissue of a decedent for transplantation into the body of another person, but only with respect to the donating decedent, for the purpose of aiding the transplant. For the purpose of this paragraph, the terms "tissue bank" and "tissue" have the same meaning as defined in Section 1635 of the Health and Safety Code.

(14) The information may be disclosed when the disclosure is otherwise specifically authorized by law, including, but not limited to, the voluntary reporting, either directly or indirectly, to the federal Food and Drug Administration of adverse events related to drug products or medical device problems.

(15) Basic information, including the patient's name, city of residence, age, sex, and general condition, may be disclosed to a state or federally recognized disaster relief organization for the purpose of responding to disaster welfare inquiries.

(16) The information may be disclosed to a third party for purposes of encoding, encrypting, or otherwise anonymizing data. However, no information so disclosed shall be further disclosed by the recipient in any way that would violate this part, including the unauthorized manipulation of coded or encrypted medical information that reveals individually identifiable medical information.

(17) For purposes of disease management programs and services as defined in Section 1399.901 of the Health and Safety Code, information may be disclosed as follows: (A) to an entity contracting with a health care service plan or the health care service plan's contractors to monitor or administer care of enrollees for a covered benefit, if the disease management services and care are authorized by a treating physician, or (B) to a disease management organization, as defined in Section 1399.900 of the Health and Safety Code, that complies fully with the physician authorization requirements of Section 1399.902 of the Health and Safety Code, if the health care service plan or its contractor provides or has provided a description of the disease management services to a treating physician or to the health care service plan's or contractor's network of physicians. Nothing in this paragraph shall be construed to require physician authorization for the care or treatment of the adherents of a well-recognized church or religious denomination who depend solely upon prayer or spiritual means for healing in the practice of the religion of that church or denomination.

(18) The information may be disclosed, as permitted by state and federal law or regulation, to a local health department for the purpose

of preventing or controlling disease, injury, or disability, including, but not limited to, the reporting of disease, injury, vital events, including, but not limited to, birth or death, and the conduct of public health surveillance, public health investigations, and public health interventions, as authorized or required by state or federal law or regulation.

(19) The information may be disclosed as described in Section 56.103.

(d) Except to the extent expressly authorized by the patient or enrollee or subscriber or as provided by subdivisions (b) and (c), no provider of health care, health care service plan, contractor, or corporation and its subsidiaries and affiliates shall intentionally share, sell, use for marketing, or otherwise use any medical information for any purpose not necessary to provide health care services to the patient.

(e) Except to the extent expressly authorized by the patient or enrollee or subscriber or as provided by subdivisions (b) and (c), no contractor or corporation and its subsidiaries and affiliates shall further disclose medical information regarding a patient of the provider of health care or an enrollee or subscriber of a health care service plan or insurer or self-insured employer received under this section to any person or entity that is not engaged in providing direct health care services to the patient or his or her provider of health care or health care service plan or insurer or self-insured employer.

SEC. 2.9. Section 56.10 of the Civil Code is amended to read:

56.10. (a) No provider of health care, health care service plan, or contractor shall disclose medical information regarding a patient of the provider of health care or an enrollee or subscriber of a health care service plan without first obtaining an authorization, except as provided in subdivision (b) or (c).

(b) A provider of health care, a health care service plan, or a contractor shall disclose medical information if the disclosure is compelled by any of the following:

(1) By a court pursuant to an order of that court.

(2) By a board, commission, or administrative agency for purposes of adjudication pursuant to its lawful authority.

(3) By a party to a proceeding before a court or administrative agency pursuant to a subpoena, subpoena duces tecum, notice to appear served pursuant to Section 1987 of the Code of Civil Procedure, or any provision authorizing discovery in a proceeding before a court or administrative agency.

(4) By a board, commission, or administrative agency pursuant to an investigative subpoena issued under Article 2 (commencing with Section 11180) of Chapter 2 of Part 1 of Division 3 of Title 2 of the Government Code.

(5) By an arbitrator or arbitration panel, when arbitration is lawfully requested by either party, pursuant to a subpoena duces tecum issued under Section 1282.6 of the Code of Civil Procedure, or any other provision authorizing discovery in a proceeding before an arbitrator or arbitration panel.

(6) By a search warrant lawfully issued to a governmental law enforcement agency.

(7) By the patient or the patient's representative pursuant to Chapter 1 (commencing with Section 123100) of Part 1 of Division 106 of the Health and Safety Code.

(8) By a coroner, when requested in the course of an investigation by the coroner's office for the purpose of identifying the decedent or locating next of kin, or when investigating deaths that may involve public health concerns, organ or tissue donation, child abuse, elder abuse, suicides, poisonings, accidents, sudden infant deaths, suspicious deaths, unknown deaths, or criminal deaths, or when otherwise authorized by the decedent's representative. Medical information requested by the coroner under this paragraph shall be limited to information regarding the patient who is the decedent and who is the subject of the investigation and shall be disclosed to the coroner without delay upon request.

(9) When otherwise specifically required by law.

(c) A provider of health care or a health care service plan may disclose medical information as follows:

(1) The information may be disclosed to providers of health care, health care service plans, contractors, or other health care professionals or facilities for purposes of diagnosis or treatment of the patient. This includes, in an emergency situation, the communication of patient information by radio transmission or other means between emergency medical personnel at the scene of an emergency, or in an emergency medical transport vehicle, and emergency medical personnel at a health facility licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code.

(2) The information may be disclosed to an insurer, employer, health care service plan, hospital service plan, employee benefit plan, governmental authority, contractor, or any other person or entity responsible for paying for health care services rendered to the patient, to the extent necessary to allow responsibility for payment to be determined and payment to be made. If (A) the patient is, by reason of a comatose or other disabling medical condition, unable to consent to the disclosure of medical information and (B) no other arrangements have been made to pay for the health care services being rendered to the patient, the information may be disclosed to a governmental authority to the extent necessary to determine the patient's eligibility for, and to

obtain, payment under a governmental program for health care services provided to the patient. The information may also be disclosed to another provider of health care or health care service plan as necessary to assist the other provider or health care service plan in obtaining payment for health care services rendered by that provider of health care or health care service plan to the patient.

(3) The information may be disclosed to a person or entity that provides billing, claims management, medical data processing, or other administrative services for providers of health care or health care service plans or for any of the persons or entities specified in paragraph (2). However, no information so disclosed shall be further disclosed by the recipient in any way that would violate this part.

(4) The information may be disclosed to organized committees and agents of professional societies or of medical staffs of licensed hospitals, licensed health care service plans, professional standards review organizations, independent medical review organizations and their selected reviewers, utilization and quality control peer review organizations as established by Congress in Public Law 97-248 in 1982, contractors, or persons or organizations insuring, responsible for, or defending professional liability that a provider may incur, if the committees, agents, health care service plans, organizations, reviewers, contractors, or persons are engaged in reviewing the competence or qualifications of health care professionals or in reviewing health care services with respect to medical necessity, level of care, quality of care, or justification of charges.

(5) The information in the possession of a provider of health care or health care service plan may be reviewed by a private or public body responsible for licensing or accrediting the provider of health care or health care service plan. However, no patient-identifying medical information may be removed from the premises except as expressly permitted or required elsewhere by law, nor shall that information be further disclosed by the recipient in any way that would violate this part.

(6) The information may be disclosed to the county coroner in the course of an investigation by the coroner's office when requested for all purposes not included in paragraph (8) of subdivision (b).

(7) The information may be disclosed to public agencies, clinical investigators, including investigators conducting epidemiologic studies, health care research organizations, and accredited public or private nonprofit educational or health care institutions for bona fide research purposes. However, no information so disclosed shall be further disclosed by the recipient in any way that would disclose the identity of a patient or violate this part.

(8) A provider of health care or health care service plan that has created medical information as a result of employment-related health care services to an employee conducted at the specific prior written request and expense of the employer may disclose to the employee's employer that part of the information that:

(A) Is relevant in a lawsuit, arbitration, grievance, or other claim or challenge to which the employer and the employee are parties and in which the patient has placed in issue his or her medical history, mental or physical condition, or treatment, provided that information may only be used or disclosed in connection with that proceeding.

(B) Describes functional limitations of the patient that may entitle the patient to leave from work for medical reasons or limit the patient's fitness to perform his or her present employment, provided that no statement of medical cause is included in the information disclosed.

(9) Unless the provider of health care or health care service plan is notified in writing of an agreement by the sponsor, insurer, or administrator to the contrary, the information may be disclosed to a sponsor, insurer, or administrator of a group or individual insured or uninsured plan or policy that the patient seeks coverage by or benefits from, if the information was created by the provider of health care or health care service plan as the result of services conducted at the specific prior written request and expense of the sponsor, insurer, or administrator for the purpose of evaluating the application for coverage or benefits.

(10) The information may be disclosed to a health care service plan by providers of health care that contract with the health care service plan and may be transferred among providers of health care that contract with the health care service plan, for the purpose of administering the health care service plan. Medical information may not otherwise be disclosed by a health care service plan except in accordance with the provisions of this part.

(11) Nothing in this part shall prevent the disclosure by a provider of health care or a health care service plan to an insurance institution, agent, or support organization, subject to Article 6.6 (commencing with Section 791) of Part 2 of Division 1 of the Insurance Code, of medical information if the insurance institution, agent, or support organization has complied with all requirements for obtaining the information pursuant to Article 6.6 (commencing with Section 791) of Part 2 of Division 1 of the Insurance Code.

(12) The information relevant to the patient's condition and care and treatment provided may be disclosed to a probate court investigator in the course of any investigation required or authorized in a conservatorship proceeding under the Guardianship-Conservatorship Law as defined in Section 1400 of the Probate Code, or to a probate court investigator,

probation officer, or domestic relations investigator engaged in determining the need for an initial guardianship or continuation of an existent guardianship.

(13) The information may be disclosed to an organ procurement organization or a tissue bank processing the tissue of a decedent for transplantation into the body of another person, but only with respect to the donating decedent, for the purpose of aiding the transplant. For the purpose of this paragraph, the terms "tissue bank" and "tissue" have the same meaning as defined in Section 1635 of the Health and Safety Code.

(14) The information may be disclosed when the disclosure is otherwise specifically authorized by law, including, but not limited to, the voluntary reporting, either directly or indirectly, to the federal Food and Drug Administration of adverse events related to drug products or medical device problems.

(15) Basic information, including the patient's name, city of residence, age, sex, and general condition, may be disclosed to a state or federally recognized disaster relief organization for the purpose of responding to disaster welfare inquiries.

(16) The information may be disclosed to a third party for purposes of encoding, encrypting, or otherwise anonymizing data. However, no information so disclosed shall be further disclosed by the recipient in any way that would violate this part, including the unauthorized manipulation of coded or encrypted medical information that reveals individually identifiable medical information.

(17) For purposes of disease management programs and services as defined in Section 1399.901 of the Health and Safety Code, information may be disclosed as follows: (A) to an entity contracting with a health care service plan or the health care service plan's contractors to monitor or administer care of enrollees for a covered benefit, if the disease management services and care are authorized by a treating physician, or (B) to a disease management organization, as defined in Section 1399.900 of the Health and Safety Code, that complies fully with the physician authorization requirements of Section 1399.902 of the Health and Safety Code, if the health care service plan or its contractor provides or has provided a description of the disease management services to a treating physician or to the health care service plan's or contractor's network of physicians. Nothing in this paragraph shall be construed to require physician authorization for the care or treatment of the adherents of a well-recognized church or religious denomination who depend solely upon prayer or spiritual means for healing in the practice of the religion of that church or denomination.

(18) The information may be disclosed, as permitted by state and federal law or regulation, to a local health department for the purpose

of preventing or controlling disease, injury, or disability, including, but not limited to, the reporting of disease, injury, vital events, including, but not limited to, birth or death, and the conduct of public health surveillance, public health investigations, and public health interventions, as authorized or required by state or federal law or regulation.

(19) The information may be disclosed, consistent with applicable law and standards of ethical conduct, by a psychotherapist, as defined in Section 1010 of the Evidence Code, if the psychotherapist, in good faith, believes the disclosure is necessary to prevent or lessen a serious and imminent threat to the health or safety of a reasonably foreseeable victim or victims, and the disclosure is made to a person or persons reasonably able to prevent or lessen the threat, including the target of the threat.

(20) The information may be disclosed as described in Section 56.103.

(d) Except to the extent expressly authorized by the patient or enrollee or subscriber or as provided by subdivisions (b) and (c), no provider of health care, health care service plan, contractor, or corporation and its subsidiaries and affiliates shall intentionally share, sell, use for marketing, or otherwise use any medical information for any purpose not necessary to provide health care services to the patient.

(e) Except to the extent expressly authorized by the patient or enrollee or subscriber or as provided by subdivisions (b) and (c), no contractor or corporation and its subsidiaries and affiliates shall further disclose medical information regarding a patient of the provider of health care or an enrollee or subscriber of a health care service plan or insurer or self-insured employer received under this section to any person or entity that is not engaged in providing direct health care services to the patient or his or her provider of health care or health care service plan or insurer or self-insured employer.

SEC. 3. Section 56.103 is added to the Civil Code, to read:

56.103. (a) A provider of health care may disclose medical information to a county social worker, a probation officer, or any other person who is legally authorized to have custody or care of a minor for the purpose of coordinating health care services and medical treatment provided to the minor.

(b) For purposes of this section, health care services and medical treatment includes one or more providers of health care providing, coordinating, or managing health care and related services, including, but not limited to, a provider of health care coordinating health care with a third party, consultation between providers of health care and medical treatment relating to a minor, or a provider of health care referring a minor for health care services to another provider of health care.

(c) For purposes of this section, a county social worker, a probation officer, or any other person who is legally authorized to have custody or care of a minor shall be considered a third party who may receive any of the following:

(1) Medical information described in Sections 56.05 and 56.10.

(2) Protected health information described in Section 160.103 of Title 45 of the Code of Federal Regulations.

(d) Medical information disclosed to a county social worker, probation officer, or any other person who is legally authorized to have custody or care of a minor shall not be further disclosed by the recipient unless the disclosure is for the purpose of coordinating health care services and medical treatment of the minor and the disclosure is authorized by law. Medical information disclosed pursuant to this section may not be admitted into evidence in any criminal or delinquency proceeding against the minor. Nothing in this subdivision shall prohibit identical evidence from being admissible in a criminal proceeding if that evidence is derived solely from lawful means other than this section and is permitted by law.

(e) (1) Notwithstanding Section 56.104, if a provider of health care determines that the disclosure of medical information concerning the diagnosis and treatment of a mental health condition of a minor is reasonably necessary for the purpose of assisting in coordinating the treatment and care of the minor, that information may be disclosed to a county social worker, probation officer, or any other person who is legally authorized to have custody or care of the minor. The information shall not be further disclosed by the recipient unless the disclosure is for the purpose of coordinating mental health services and treatment of the minor and the disclosure is authorized by law.

(2) As used in this subdivision, "medical information" does not include psychotherapy notes as defined in Section 164.501 of Title 45 of the Code of Federal Regulations.

(f) The disclosure of information pursuant to this section is not intended to limit the disclosure of information when that disclosure is otherwise required by law.

(g) For purposes of this section, "minor" means a minor taken into temporary custody or as to who a petition has been filed with the court, or who has been adjudged to be a dependent child or ward of the juvenile court pursuant to Section 300 or 600 of the Welfare and Institutions Code.

(h) (1) Except as described in paragraph (1) of subdivision (e), nothing in this section shall be construed to limit or otherwise affect existing privacy protections provided for in state or federal law.

(2) Nothing in this section shall be construed to expand the authority of a social worker, probation officer, or custodial caregiver beyond the

authority provided under existing law to a parent or a patient representative regarding access to medical information.

SEC. 4. (a) Section 2.5 of this bill incorporates amendments to Section 56.10 of the Civil Code proposed by both this bill and AB 1178. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2008, (2) each bill amends Section 56.10 of the Civil Code, (3) AB 1727 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 1178, in which case Sections 2, 2.7, and 2.9 of this bill shall not become operative.

(b) Section 2.7 of this bill incorporates amendments to Section 56.10 of the Civil Code proposed by both this bill and AB 1727. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2008, (2) each bill amends Section 56.10 of the Civil Code, (3) AB 1178 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 1727 in which case Sections 2, 2.5, and 2.9 of this bill shall not become operative.

(c) Section 2.9 of this bill incorporates amendments to Section 56.10 of the Civil Code proposed by this bill, AB 1178, and AB 1727. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 2008, (2) all three bills amend Section 56.10 of the Civil Code, and (3) this bill is enacted after AB 1178 and AB 1727, in which case Sections 2, 2.5, and 2.7 of this bill shall not become operative.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CHAPTER 553

An act to amend Section 56.10 of the Civil Code, and to amend Sections 1456, 1457, 1458, 1800.3, 1826, 1830, 1851, 2250, 2250.2, 2250.6, 2257, 2320, 2543, 2590, 2591, 2591.5, 2620.2, and 2628 of, to amend and renumber the headings of Chapter 2 (commencing with Section 2920), Chapter 3 (commencing with Section 2940), and Chapter 4 (commencing with Section 2950) of Part 5 of Division 4 of, to add Sections 1456.5, 1851.2, 2217, 2451.5, 2620.1, and 2647 to, and to add

Chapter 2 (commencing with Section 2910) to Part 5 of Division 4 of, the Probate Code, relating to conservators and guardians.

[Approved by Governor October 12, 2007. Filed with Secretary of State October 12, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 56.10 of the Civil Code is amended to read:

56.10. (a) No provider of health care, health care service plan, or contractor shall disclose medical information regarding a patient of the provider of health care or an enrollee or subscriber of a health care service plan without first obtaining an authorization, except as provided in subdivision (b) or (c).

(b) A provider of health care, a health care service plan, or a contractor shall disclose medical information if the disclosure is compelled by any of the following:

(1) By a court pursuant to an order of that court.

(2) By a board, commission, or administrative agency for purposes of adjudication pursuant to its lawful authority.

(3) By a party to a proceeding before a court or administrative agency pursuant to a subpoena, subpoena duces tecum, notice to appear served pursuant to Section 1987 of the Code of Civil Procedure, or any provision authorizing discovery in a proceeding before a court or administrative agency.

(4) By a board, commission, or administrative agency pursuant to an investigative subpoena issued under Article 2 (commencing with Section 11180) of Chapter 2 of Part 1 of Division 3 of Title 2 of the Government Code.

(5) By an arbitrator or arbitration panel, when arbitration is lawfully requested by either party, pursuant to a subpoena duces tecum issued under Section 1282.6 of the Code of Civil Procedure, or any other provision authorizing discovery in a proceeding before an arbitrator or arbitration panel.

(6) By a search warrant lawfully issued to a governmental law enforcement agency.

(7) By the patient or the patient's representative pursuant to Chapter 1 (commencing with Section 123100) of Part 1 of Division 106 of the Health and Safety Code.

(8) By a coroner, when requested in the course of an investigation by the coroner's office for the purpose of identifying the decedent or locating next of kin, or when investigating deaths that may involve public health concerns, organ or tissue donation, child abuse, elder abuse, suicides,

poisonings, accidents, sudden infant deaths, suspicious deaths, unknown deaths, or criminal deaths, or when otherwise authorized by the decedent's representative. Medical information requested by the coroner under this paragraph shall be limited to information regarding the patient who is the decedent and who is the subject of the investigation and shall be disclosed to the coroner without delay upon request.

(9) When otherwise specifically required by law.

(c) A provider of health care or a health care service plan may disclose medical information as follows:

(1) The information may be disclosed to providers of health care, health care service plans, contractors, or other health care professionals or facilities for purposes of diagnosis or treatment of the patient. This includes, in an emergency situation, the communication of patient information by radio transmission or other means between emergency medical personnel at the scene of an emergency, or in an emergency medical transport vehicle, and emergency medical personnel at a health facility licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code.

(2) The information may be disclosed to an insurer, employer, health care service plan, hospital service plan, employee benefit plan, governmental authority, contractor, or any other person or entity responsible for paying for health care services rendered to the patient, to the extent necessary to allow responsibility for payment to be determined and payment to be made. If (A) the patient is, by reason of a comatose or other disabling medical condition, unable to consent to the disclosure of medical information and (B) no other arrangements have been made to pay for the health care services being rendered to the patient, the information may be disclosed to a governmental authority to the extent necessary to determine the patient's eligibility for, and to obtain, payment under a governmental program for health care services provided to the patient. The information may also be disclosed to another provider of health care or health care service plan as necessary to assist the other provider or health care service plan in obtaining payment for health care services rendered by that provider of health care or health care service plan to the patient.

(3) The information may be disclosed to any person or entity that provides billing, claims management, medical data processing, or other administrative services for providers of health care or health care service plans or for any of the persons or entities specified in paragraph (2). However, no information so disclosed shall be further disclosed by the recipient in any way that would be violative of this part.

(4) The information may be disclosed to organized committees and agents of professional societies or of medical staffs of licensed hospitals,

licensed health care service plans, professional standards review organizations, independent medical review organizations and their selected reviewers, utilization and quality control peer review organizations as established by Congress in Public Law 97-248 in 1982, contractors, or persons or organizations insuring, responsible for, or defending professional liability that a provider may incur, if the committees, agents, health care service plans, organizations, reviewers, contractors, or persons are engaged in reviewing the competence or qualifications of health care professionals or in reviewing health care services with respect to medical necessity, level of care, quality of care, or justification of charges.

(5) The information in the possession of any provider of health care or health care service plan may be reviewed by any private or public body responsible for licensing or accrediting the provider of health care or health care service plan. However, no patient-identifying medical information may be removed from the premises except as expressly permitted or required elsewhere by law, nor shall that information be further disclosed by the recipient in any way that would violate this part.

(6) The information may be disclosed to the county coroner in the course of an investigation by the coroner's office when requested for all purposes not included in paragraph (8) of subdivision (b).

(7) The information may be disclosed to public agencies, clinical investigators, including investigators conducting epidemiologic studies, health care research organizations, and accredited public or private nonprofit educational or health care institutions for bona fide research purposes. However, no information so disclosed shall be further disclosed by the recipient in any way that would disclose the identity of any patient or be violative of this part.

(8) A provider of health care or health care service plan that has created medical information as a result of employment-related health care services to an employee conducted at the specific prior written request and expense of the employer may disclose to the employee's employer that part of the information that:

(A) Is relevant in a lawsuit, arbitration, grievance, or other claim or challenge to which the employer and the employee are parties and in which the patient has placed in issue his or her medical history, mental or physical condition, or treatment, provided that information may only be used or disclosed in connection with that proceeding.

(B) Describes functional limitations of the patient that may entitle the patient to leave from work for medical reasons or limit the patient's fitness to perform his or her present employment, provided that no statement of medical cause is included in the information disclosed.

(9) Unless the provider of health care or health care service plan is notified in writing of an agreement by the sponsor, insurer, or administrator to the contrary, the information may be disclosed to a sponsor, insurer, or administrator of a group or individual insured or uninsured plan or policy that the patient seeks coverage by or benefits from, if the information was created by the provider of health care or health care service plan as the result of services conducted at the specific prior written request and expense of the sponsor, insurer, or administrator for the purpose of evaluating the application for coverage or benefits.

(10) The information may be disclosed to a health care service plan by providers of health care that contract with the health care service plan and may be transferred among providers of health care that contract with the health care service plan, for the purpose of administering the health care service plan. Medical information may not otherwise be disclosed by a health care service plan except in accordance with the provisions of this part.

(11) Nothing in this part shall prevent the disclosure by a provider of health care or a health care service plan to an insurance institution, agent, or support organization, subject to Article 6.6 (commencing with Section 791) of Part 2 of Division 1 of the Insurance Code, of medical information if the insurance institution, agent, or support organization has complied with all requirements for obtaining the information pursuant to Article 6.6 (commencing with Section 791) of Part 2 of Division 1 of the Insurance Code.

(12) The information relevant to the patient's condition and care and treatment provided may be disclosed to a probate court investigator in the course of any investigation required or authorized in a conservatorship proceeding under the Guardianship-Conservatorship Law as defined in Section 1400 of the Probate Code, or to a probate court investigator, probation officer, or domestic relations investigator engaged in determining the need for an initial guardianship or continuation of an existent guardianship.

(13) The information may be disclosed to an organ procurement organization or a tissue bank processing the tissue of a decedent for transplantation into the body of another person, but only with respect to the donating decedent, for the purpose of aiding the transplant. For the purpose of this paragraph, the terms "tissue bank" and "tissue" have the same meaning as defined in Section 1635 of the Health and Safety Code.

(14) The information may be disclosed when the disclosure is otherwise specifically authorized by law, such as the voluntary reporting, either directly or indirectly, to the federal Food and Drug Administration of adverse events related to drug products or medical device problems.

(15) Basic information, including the patient's name, city of residence, age, sex, and general condition, may be disclosed to a state or federally recognized disaster relief organization for the purpose of responding to disaster welfare inquiries.

(16) The information may be disclosed to a third party for purposes of encoding, encrypting, or otherwise anonymizing data. However, no information so disclosed shall be further disclosed by the recipient in any way that would be violative of this part, including the unauthorized manipulation of coded or encrypted medical information that reveals individually identifiable medical information.

(17) For purposes of disease management programs and services as defined in Section 1399.901 of the Health and Safety Code, information may be disclosed as follows: (A) to any entity contracting with a health care service plan or the health care service plan's contractors to monitor or administer care of enrollees for a covered benefit, provided that the disease management services and care are authorized by a treating physician, or (B) to any disease management organization, as defined in Section 1399.900 of the Health and Safety Code, that complies fully with the physician authorization requirements of Section 1399.902 of the Health and Safety Code, provided that the health care service plan or its contractor provides or has provided a description of the disease management services to a treating physician or to the health care service plan's or contractor's network of physicians. Nothing in this paragraph shall be construed to require physician authorization for the care or treatment of the adherents of any well-recognized church or religious denomination who depend solely upon prayer or spiritual means for healing in the practice of the religion of that church or denomination.

(18) The information may be disclosed, as permitted by state and federal law or regulation, to a local health department for the purpose of preventing or controlling disease, injury, or disability, including, but not limited to, the reporting of disease, injury, vital events such as birth or death, and the conduct of public health surveillance, public health investigations, and public health interventions, as authorized or required by state or federal law or regulation.

(d) Except to the extent expressly authorized by the patient or enrollee or subscriber or as provided by subdivisions (b) and (c), no provider of health care, health care service plan, contractor, or corporation and its subsidiaries and affiliates shall intentionally share, sell, use for marketing, or otherwise use any medical information for any purpose not necessary to provide health care services to the patient.

(e) Except to the extent expressly authorized by the patient or enrollee or subscriber or as provided by subdivisions (b) and (c), no contractor or corporation and its subsidiaries and affiliates shall further disclose

medical information regarding a patient of the provider of health care or an enrollee or subscriber of a health care service plan or insurer or self-insured employer received under this section to any person or entity that is not engaged in providing direct health care services to the patient or his or her provider of health care or health care service plan or insurer or self-insured employer.

SEC. 1.5. Section 56.10 of the Civil Code is amended to read:

56.10. (a) No provider of health care, health care service plan, or contractor shall disclose medical information regarding a patient of the provider of health care or an enrollee or subscriber of a health care service plan without first obtaining an authorization, except as provided in subdivision (b) or (c).

(b) A provider of health care, a health care service plan, or a contractor shall disclose medical information if the disclosure is compelled by any of the following:

(1) By a court pursuant to an order of that court.

(2) By a board, commission, or administrative agency for purposes of adjudication pursuant to its lawful authority.

(3) By a party to a proceeding before a court or administrative agency pursuant to a subpoena, subpoena duces tecum, notice to appear served pursuant to Section 1987 of the Code of Civil Procedure, or any provision authorizing discovery in a proceeding before a court or administrative agency.

(4) By a board, commission, or administrative agency pursuant to an investigative subpoena issued under Article 2 (commencing with Section 11180) of Chapter 2 of Part 1 of Division 3 of Title 2 of the Government Code.

(5) By an arbitrator or arbitration panel, when arbitration is lawfully requested by either party, pursuant to a subpoena duces tecum issued under Section 1282.6 of the Code of Civil Procedure, or any other provision authorizing discovery in a proceeding before an arbitrator or arbitration panel.

(6) By a search warrant lawfully issued to a governmental law enforcement agency.

(7) By the patient or the patient's representative pursuant to Chapter 1 (commencing with Section 123100) of Part 1 of Division 106 of the Health and Safety Code.

(8) By a coroner, when requested in the course of an investigation by the coroner's office for the purpose of identifying the decedent or locating next of kin, or when investigating deaths that may involve public health concerns, organ or tissue donation, child abuse, elder abuse, suicides, poisonings, accidents, sudden infant deaths, suspicious deaths, unknown deaths, or criminal deaths, or when otherwise authorized by the

decedent's representative. Medical information requested by the coroner under this paragraph shall be limited to information regarding the patient who is the decedent and who is the subject of the investigation and shall be disclosed to the coroner without delay upon request.

(9) When otherwise specifically required by law.

(c) A provider of health care or a health care service plan may disclose medical information as follows:

(1) The information may be disclosed to providers of health care, health care service plans, contractors, or other health care professionals or facilities for purposes of diagnosis or treatment of the patient. This includes, in an emergency situation, the communication of patient information by radio transmission or other means between emergency medical personnel at the scene of an emergency, or in an emergency medical transport vehicle, and emergency medical personnel at a health facility licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code.

(2) The information may be disclosed to an insurer, employer, health care service plan, hospital service plan, employee benefit plan, governmental authority, contractor, or any other person or entity responsible for paying for health care services rendered to the patient, to the extent necessary to allow responsibility for payment to be determined and payment to be made. If (A) the patient is, by reason of a comatose or other disabling medical condition, unable to consent to the disclosure of medical information and (B) no other arrangements have been made to pay for the health care services being rendered to the patient, the information may be disclosed to a governmental authority to the extent necessary to determine the patient's eligibility for, and to obtain, payment under a governmental program for health care services provided to the patient. The information may also be disclosed to another provider of health care or health care service plan as necessary to assist the other provider or health care service plan in obtaining payment for health care services rendered by that provider of health care or health care service plan to the patient.

(3) The information may be disclosed to any person or entity that provides billing, claims management, medical data processing, or other administrative services for providers of health care or health care service plans or for any of the persons or entities specified in paragraph (2). However, no information so disclosed shall be further disclosed by the recipient in any way that would be violative of this part.

(4) The information may be disclosed to organized committees and agents of professional societies or of medical staffs of licensed hospitals, licensed health care service plans, professional standards review organizations, independent medical review organizations and their

selected reviewers, utilization and quality control peer review organizations as established by Congress in Public Law 97-248 in 1982, contractors, or persons or organizations insuring, responsible for, or defending professional liability that a provider may incur, if the committees, agents, health care service plans, organizations, reviewers, contractors, or persons are engaged in reviewing the competence or qualifications of health care professionals or in reviewing health care services with respect to medical necessity, level of care, quality of care, or justification of charges.

(5) The information in the possession of any provider of health care or health care service plan may be reviewed by any private or public body responsible for licensing or accrediting the provider of health care or health care service plan. However, no patient-identifying medical information may be removed from the premises except as expressly permitted or required elsewhere by law, nor shall that information be further disclosed by the recipient in any way that would violate this part.

(6) The information may be disclosed to the county coroner in the course of an investigation by the coroner's office when requested for all purposes not included in paragraph (8) of subdivision (b).

(7) The information may be disclosed to public agencies, clinical investigators, including investigators conducting epidemiologic studies, health care research organizations, and accredited public or private nonprofit educational or health care institutions for bona fide research purposes. However, no information so disclosed shall be further disclosed by the recipient in any way that would disclose the identity of any patient or be violative of this part.

(8) A provider of health care or health care service plan that has created medical information as a result of employment-related health care services to an employee conducted at the specific prior written request and expense of the employer may disclose to the employee's employer that part of the information that:

(A) Is relevant in a lawsuit, arbitration, grievance, or other claim or challenge to which the employer and the employee are parties and in which the patient has placed in issue his or her medical history, mental or physical condition, or treatment, provided that information may only be used or disclosed in connection with that proceeding.

(B) Describes functional limitations of the patient that may entitle the patient to leave from work for medical reasons or limit the patient's fitness to perform his or her present employment, provided that no statement of medical cause is included in the information disclosed.

(9) Unless the provider of health care or health care service plan is notified in writing of an agreement by the sponsor, insurer, or administrator to the contrary, the information may be disclosed to a

sponsor, insurer, or administrator of a group or individual insured or uninsured plan or policy that the patient seeks coverage by or benefits from, if the information was created by the provider of health care or health care service plan as the result of services conducted at the specific prior written request and expense of the sponsor, insurer, or administrator for the purpose of evaluating the application for coverage or benefits.

(10) The information may be disclosed to a health care service plan by providers of health care that contract with the health care service plan and may be transferred among providers of health care that contract with the health care service plan, for the purpose of administering the health care service plan. Medical information may not otherwise be disclosed by a health care service plan except in accordance with the provisions of this part.

(11) Nothing in this part shall prevent the disclosure by a provider of health care or a health care service plan to an insurance institution, agent, or support organization, subject to Article 6.6 (commencing with Section 791) of Part 2 of Division 1 of the Insurance Code, of medical information if the insurance institution, agent, or support organization has complied with all requirements for obtaining the information pursuant to Article 6.6 (commencing with Section 791) of Part 2 of Division 1 of the Insurance Code.

(12) The information relevant to the patient's condition and care and treatment provided may be disclosed to a probate court investigator in the course of any investigation required or authorized in a conservatorship proceeding under the Guardianship-Conservatorship Law as defined in Section 1400 of the Probate Code, or to a probate court investigator, probation officer, or domestic relations investigator engaged in determining the need for an initial guardianship or continuation of an existent guardianship.

(13) The information may be disclosed to an organ procurement organization or a tissue bank processing the tissue of a decedent for transplantation into the body of another person, but only with respect to the donating decedent, for the purpose of aiding the transplant. For the purpose of this paragraph, the terms "tissue bank" and "tissue" have the same meaning as defined in Section 1635 of the Health and Safety Code.

(14) The information may be disclosed when the disclosure is otherwise specifically authorized by law, such as the voluntary reporting, either directly or indirectly, to the federal Food and Drug Administration of adverse events related to drug products or medical device problems.

(15) Basic information, including the patient's name, city of residence, age, sex, and general condition, may be disclosed to a state or federally recognized disaster relief organization for the purpose of responding to disaster welfare inquiries.

(16) The information may be disclosed to a third party for purposes of encoding, encrypting, or otherwise anonymizing data. However, no information so disclosed shall be further disclosed by the recipient in any way that would be violative of this part, including the unauthorized manipulation of coded or encrypted medical information that reveals individually identifiable medical information.

(17) For purposes of disease management programs and services as defined in Section 1399.901 of the Health and Safety Code, information may be disclosed as follows: (A) to any entity contracting with a health care service plan or the health care service plan's contractors to monitor or administer care of enrollees for a covered benefit, provided that the disease management services and care are authorized by a treating physician, or (B) to any disease management organization, as defined in Section 1399.900 of the Health and Safety Code, that complies fully with the physician authorization requirements of Section 1399.902 of the Health and Safety Code, provided that the health care service plan or its contractor provides or has provided a description of the disease management services to a treating physician or to the health care service plan's or contractor's network of physicians. Nothing in this paragraph shall be construed to require physician authorization for the care or treatment of the adherents of any well-recognized church or religious denomination who depend solely upon prayer or spiritual means for healing in the practice of the religion of that church or denomination.

(18) The information may be disclosed, as permitted by state and federal law or regulation, to a local health department for the purpose of preventing or controlling disease, injury, or disability, including, but not limited to, the reporting of disease, injury, vital events such as birth or death, and the conduct of public health surveillance, public health investigations, and public health interventions, as authorized or required by state or federal law or regulation.

(19) The information may be disclosed, consistent with applicable law and standards of ethical conduct, by a psychotherapist, as defined in Section 1010 of the Evidence Code, if the psychotherapist, in good faith, believes the disclosure is necessary to prevent or lessen a serious and imminent threat to the health or safety of a reasonably foreseeable victim or victims, and the disclosure is made to a person or persons reasonably able to prevent or lessen the threat, including the target of the threat.

(d) Except to the extent expressly authorized by the patient or enrollee or subscriber or as provided by subdivisions (b) and (c), no provider of health care, health care service plan, contractor, or corporation and its subsidiaries and affiliates shall intentionally share, sell, use for marketing,

or otherwise use any medical information for any purpose not necessary to provide health care services to the patient.

(e) Except to the extent expressly authorized by the patient or enrollee or subscriber or as provided by subdivisions (b) and (c), no contractor or corporation and its subsidiaries and affiliates shall further disclose medical information regarding a patient of the provider of health care or an enrollee or subscriber of a health care service plan or insurer or self-insured employer received under this section to any person or entity that is not engaged in providing direct health care services to the patient or his or her provider of health care or health care service plan or insurer or self-insured employer.

SEC. 1.7. Section 56.10 of the Civil Code is amended to read:

56.10. (a) No provider of health care, health care service plan, or contractor shall disclose medical information regarding a patient of the provider of health care or an enrollee or subscriber of a health care service plan without first obtaining an authorization, except as provided in subdivision (b) or (c).

(b) A provider of health care, a health care service plan, or a contractor shall disclose medical information if the disclosure is compelled by any of the following:

(1) By a court pursuant to an order of that court.

(2) By a board, commission, or administrative agency for purposes of adjudication pursuant to its lawful authority.

(3) By a party to a proceeding before a court or administrative agency pursuant to a subpoena, subpoena duces tecum, notice to appear served pursuant to Section 1987 of the Code of Civil Procedure, or any provision authorizing discovery in a proceeding before a court or administrative agency.

(4) By a board, commission, or administrative agency pursuant to an investigative subpoena issued under Article 2 (commencing with Section 11180) of Chapter 2 of Part 1 of Division 3 of Title 2 of the Government Code.

(5) By an arbitrator or arbitration panel, when arbitration is lawfully requested by either party, pursuant to a subpoena duces tecum issued under Section 1282.6 of the Code of Civil Procedure, or any other provision authorizing discovery in a proceeding before an arbitrator or arbitration panel.

(6) By a search warrant lawfully issued to a governmental law enforcement agency.

(7) By the patient or the patient's representative pursuant to Chapter 1 (commencing with Section 123100) of Part 1 of Division 106 of the Health and Safety Code.

(8) By a coroner, when requested in the course of an investigation by the coroner's office for the purpose of identifying the decedent or locating next of kin, or when investigating deaths that may involve public health concerns, organ or tissue donation, child abuse, elder abuse, suicides, poisonings, accidents, sudden infant deaths, suspicious deaths, unknown deaths, or criminal deaths, or when otherwise authorized by the decedent's representative. Medical information requested by the coroner under this paragraph shall be limited to information regarding the patient who is the decedent and who is the subject of the investigation and shall be disclosed to the coroner without delay upon request.

(9) When otherwise specifically required by law.

(c) A provider of health care or a health care service plan may disclose medical information as follows:

(1) The information may be disclosed to providers of health care, health care service plans, contractors, or other health care professionals or facilities for purposes of diagnosis or treatment of the patient. This includes, in an emergency situation, the communication of patient information by radio transmission or other means between emergency medical personnel at the scene of an emergency, or in an emergency medical transport vehicle, and emergency medical personnel at a health facility licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code.

(2) The information may be disclosed to an insurer, employer, health care service plan, hospital service plan, employee benefit plan, governmental authority, contractor, or any other person or entity responsible for paying for health care services rendered to the patient, to the extent necessary to allow responsibility for payment to be determined and payment to be made. If (A) the patient is, by reason of a comatose or other disabling medical condition, unable to consent to the disclosure of medical information and (B) no other arrangements have been made to pay for the health care services being rendered to the patient, the information may be disclosed to a governmental authority to the extent necessary to determine the patient's eligibility for, and to obtain, payment under a governmental program for health care services provided to the patient. The information may also be disclosed to another provider of health care or health care service plan as necessary to assist the other provider or health care service plan in obtaining payment for health care services rendered by that provider of health care or health care service plan to the patient.

(3) The information may be disclosed to a person or entity that provides billing, claims management, medical data processing, or other administrative services for providers of health care or health care service plans or for any of the persons or entities specified in paragraph (2).

However, no information so disclosed shall be further disclosed by the recipient in any way that would violate this part.

(4) The information may be disclosed to organized committees and agents of professional societies or of medical staffs of licensed hospitals, licensed health care service plans, professional standards review organizations, independent medical review organizations and their selected reviewers, utilization and quality control peer review organizations as established by Congress in Public Law 97-248 in 1982, contractors, or persons or organizations insuring, responsible for, or defending professional liability that a provider may incur, if the committees, agents, health care service plans, organizations, reviewers, contractors, or persons are engaged in reviewing the competence or qualifications of health care professionals or in reviewing health care services with respect to medical necessity, level of care, quality of care, or justification of charges.

(5) The information in the possession of a provider of health care or health care service plan may be reviewed by a private or public body responsible for licensing or accrediting the provider of health care or health care service plan. However, no patient-identifying medical information may be removed from the premises except as expressly permitted or required elsewhere by law, nor shall that information be further disclosed by the recipient in any way that would violate this part.

(6) The information may be disclosed to the county coroner in the course of an investigation by the coroner's office when requested for all purposes not included in paragraph (8) of subdivision (b).

(7) The information may be disclosed to public agencies, clinical investigators, including investigators conducting epidemiologic studies, health care research organizations, and accredited public or private nonprofit educational or health care institutions for bona fide research purposes. However, no information so disclosed shall be further disclosed by the recipient in any way that would disclose the identity of a patient or violate this part.

(8) A provider of health care or health care service plan that has created medical information as a result of employment-related health care services to an employee conducted at the specific prior written request and expense of the employer may disclose to the employee's employer that part of the information that:

(A) Is relevant in a lawsuit, arbitration, grievance, or other claim or challenge to which the employer and the employee are parties and in which the patient has placed in issue his or her medical history, mental or physical condition, or treatment, provided that information may only be used or disclosed in connection with that proceeding.

(B) Describes functional limitations of the patient that may entitle the patient to leave from work for medical reasons or limit the patient's fitness to perform his or her present employment, provided that no statement of medical cause is included in the information disclosed.

(9) Unless the provider of health care or health care service plan is notified in writing of an agreement by the sponsor, insurer, or administrator to the contrary, the information may be disclosed to a sponsor, insurer, or administrator of a group or individual insured or uninsured plan or policy that the patient seeks coverage by or benefits from, if the information was created by the provider of health care or health care service plan as the result of services conducted at the specific prior written request and expense of the sponsor, insurer, or administrator for the purpose of evaluating the application for coverage or benefits.

(10) The information may be disclosed to a health care service plan by providers of health care that contract with the health care service plan and may be transferred among providers of health care that contract with the health care service plan, for the purpose of administering the health care service plan. Medical information may not otherwise be disclosed by a health care service plan except in accordance with the provisions of this part.

(11) Nothing in this part shall prevent the disclosure by a provider of health care or a health care service plan to an insurance institution, agent, or support organization, subject to Article 6.6 (commencing with Section 791) of Part 2 of Division 1 of the Insurance Code, of medical information if the insurance institution, agent, or support organization has complied with all requirements for obtaining the information pursuant to Article 6.6 (commencing with Section 791) of Part 2 of Division 1 of the Insurance Code.

(12) The information relevant to the patient's condition and care and treatment provided may be disclosed to a probate court investigator in the course of any investigation required or authorized in a conservatorship proceeding under the Guardianship-Conservatorship Law as defined in Section 1400 of the Probate Code, or to a probate court investigator, probation officer, or domestic relations investigator engaged in determining the need for an initial guardianship or continuation of an existent guardianship.

(13) The information may be disclosed to an organ procurement organization or a tissue bank processing the tissue of a decedent for transplantation into the body of another person, but only with respect to the donating decedent, for the purpose of aiding the transplant. For the purpose of this paragraph, the terms "tissue bank" and "tissue" have the same meaning as defined in Section 1635 of the Health and Safety Code.

(14) The information may be disclosed when the disclosure is otherwise specifically authorized by law, including, but not limited to, the voluntary reporting, either directly or indirectly, to the federal Food and Drug Administration of adverse events related to drug products or medical device problems.

(15) Basic information, including the patient's name, city of residence, age, sex, and general condition, may be disclosed to a state or federally recognized disaster relief organization for the purpose of responding to disaster welfare inquiries.

(16) The information may be disclosed to a third party for purposes of encoding, encrypting, or otherwise anonymizing data. However, no information so disclosed shall be further disclosed by the recipient in any way that would violate this part, including the unauthorized manipulation of coded or encrypted medical information that reveals individually identifiable medical information.

(17) For purposes of disease management programs and services as defined in Section 1399.901 of the Health and Safety Code, information may be disclosed as follows: (A) to an entity contracting with a health care service plan or the health care service plan's contractors to monitor or administer care of enrollees for a covered benefit, if the disease management services and care are authorized by a treating physician, or (B) to a disease management organization, as defined in Section 1399.900 of the Health and Safety Code, that complies fully with the physician authorization requirements of Section 1399.902 of the Health and Safety Code, if the health care service plan or its contractor provides or has provided a description of the disease management services to a treating physician or to the health care service plan's or contractor's network of physicians. Nothing in this paragraph shall be construed to require physician authorization for the care or treatment of the adherents of a well-recognized church or religious denomination who depend solely upon prayer or spiritual means for healing in the practice of the religion of that church or denomination.

(18) The information may be disclosed, as permitted by state and federal law or regulation, to a local health department for the purpose of preventing or controlling disease, injury, or disability, including, but not limited to, the reporting of disease, injury, vital events, including, but not limited to, birth or death, and the conduct of public health surveillance, public health investigations, and public health interventions, as authorized or required by state or federal law or regulation.

(19) The information may be disclosed as described in Section 56.103.

(d) Except to the extent expressly authorized by the patient or enrollee or subscriber or as provided by subdivisions (b) and (c), no provider of health care, health care service plan, contractor, or corporation and its

subsidiaries and affiliates shall intentionally share, sell, use for marketing, or otherwise use any medical information for any purpose not necessary to provide health care services to the patient.

(e) Except to the extent expressly authorized by the patient or enrollee or subscriber or as provided by subdivisions (b) and (c), no contractor or corporation and its subsidiaries and affiliates shall further disclose medical information regarding a patient of the provider of health care or an enrollee or subscriber of a health care service plan or insurer or self-insured employer received under this section to any person or entity that is not engaged in providing direct health care services to the patient or his or her provider of health care or health care service plan or insurer or self-insured employer.

SEC. 1.9. Section 56.10 of the Civil Code is amended to read:

56.10. (a) No provider of health care, health care service plan, or contractor shall disclose medical information regarding a patient of the provider of health care or an enrollee or subscriber of a health care service plan without first obtaining an authorization, except as provided in subdivision (b) or (c).

(b) A provider of health care, a health care service plan, or a contractor shall disclose medical information if the disclosure is compelled by any of the following:

(1) By a court pursuant to an order of that court.

(2) By a board, commission, or administrative agency for purposes of adjudication pursuant to its lawful authority.

(3) By a party to a proceeding before a court or administrative agency pursuant to a subpoena, subpoena duces tecum, notice to appear served pursuant to Section 1987 of the Code of Civil Procedure, or any provision authorizing discovery in a proceeding before a court or administrative agency.

(4) By a board, commission, or administrative agency pursuant to an investigative subpoena issued under Article 2 (commencing with Section 11180) of Chapter 2 of Part 1 of Division 3 of Title 2 of the Government Code.

(5) By an arbitrator or arbitration panel, when arbitration is lawfully requested by either party, pursuant to a subpoena duces tecum issued under Section 1282.6 of the Code of Civil Procedure, or any other provision authorizing discovery in a proceeding before an arbitrator or arbitration panel.

(6) By a search warrant lawfully issued to a governmental law enforcement agency.

(7) By the patient or the patient's representative pursuant to Chapter 1 (commencing with Section 123100) of Part 1 of Division 106 of the Health and Safety Code.

(8) By a coroner, when requested in the course of an investigation by the coroner's office for the purpose of identifying the decedent or locating next of kin, or when investigating deaths that may involve public health concerns, organ or tissue donation, child abuse, elder abuse, suicides, poisonings, accidents, sudden infant deaths, suspicious deaths, unknown deaths, or criminal deaths, or when otherwise authorized by the decedent's representative. Medical information requested by the coroner under this paragraph shall be limited to information regarding the patient who is the decedent and who is the subject of the investigation and shall be disclosed to the coroner without delay upon request.

(9) When otherwise specifically required by law.

(c) A provider of health care or a health care service plan may disclose medical information as follows:

(1) The information may be disclosed to providers of health care, health care service plans, contractors, or other health care professionals or facilities for purposes of diagnosis or treatment of the patient. This includes, in an emergency situation, the communication of patient information by radio transmission or other means between emergency medical personnel at the scene of an emergency, or in an emergency medical transport vehicle, and emergency medical personnel at a health facility licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code.

(2) The information may be disclosed to an insurer, employer, health care service plan, hospital service plan, employee benefit plan, governmental authority, contractor, or any other person or entity responsible for paying for health care services rendered to the patient, to the extent necessary to allow responsibility for payment to be determined and payment to be made. If (A) the patient is, by reason of a comatose or other disabling medical condition, unable to consent to the disclosure of medical information and (B) no other arrangements have been made to pay for the health care services being rendered to the patient, the information may be disclosed to a governmental authority to the extent necessary to determine the patient's eligibility for, and to obtain, payment under a governmental program for health care services provided to the patient. The information may also be disclosed to another provider of health care or health care service plan as necessary to assist the other provider or health care service plan in obtaining payment for health care services rendered by that provider of health care or health care service plan to the patient.

(3) The information may be disclosed to a person or entity that provides billing, claims management, medical data processing, or other administrative services for providers of health care or health care service plans or for any of the persons or entities specified in paragraph (2).

However, no information so disclosed shall be further disclosed by the recipient in any way that would violate this part.

(4) The information may be disclosed to organized committees and agents of professional societies or of medical staffs of licensed hospitals, licensed health care service plans, professional standards review organizations, independent medical review organizations and their selected reviewers, utilization and quality control peer review organizations as established by Congress in Public Law 97-248 in 1982, contractors, or persons or organizations insuring, responsible for, or defending professional liability that a provider may incur, if the committees, agents, health care service plans, organizations, reviewers, contractors, or persons are engaged in reviewing the competence or qualifications of health care professionals or in reviewing health care services with respect to medical necessity, level of care, quality of care, or justification of charges.

(5) The information in the possession of a provider of health care or health care service plan may be reviewed by a private or public body responsible for licensing or accrediting the provider of health care or health care service plan. However, no patient-identifying medical information may be removed from the premises except as expressly permitted or required elsewhere by law, nor shall that information be further disclosed by the recipient in any way that would violate this part.

(6) The information may be disclosed to the county coroner in the course of an investigation by the coroner's office when requested for all purposes not included in paragraph (8) of subdivision (b).

(7) The information may be disclosed to public agencies, clinical investigators, including investigators conducting epidemiologic studies, health care research organizations, and accredited public or private nonprofit educational or health care institutions for bona fide research purposes. However, no information so disclosed shall be further disclosed by the recipient in any way that would disclose the identity of a patient or violate this part.

(8) A provider of health care or health care service plan that has created medical information as a result of employment-related health care services to an employee conducted at the specific prior written request and expense of the employer may disclose to the employee's employer that part of the information that:

(A) Is relevant in a lawsuit, arbitration, grievance, or other claim or challenge to which the employer and the employee are parties and in which the patient has placed in issue his or her medical history, mental or physical condition, or treatment, provided that information may only be used or disclosed in connection with that proceeding.

(B) Describes functional limitations of the patient that may entitle the patient to leave from work for medical reasons or limit the patient's fitness to perform his or her present employment, provided that no statement of medical cause is included in the information disclosed.

(9) Unless the provider of health care or health care service plan is notified in writing of an agreement by the sponsor, insurer, or administrator to the contrary, the information may be disclosed to a sponsor, insurer, or administrator of a group or individual insured or uninsured plan or policy that the patient seeks coverage by or benefits from, if the information was created by the provider of health care or health care service plan as the result of services conducted at the specific prior written request and expense of the sponsor, insurer, or administrator for the purpose of evaluating the application for coverage or benefits.

(10) The information may be disclosed to a health care service plan by providers of health care that contract with the health care service plan and may be transferred among providers of health care that contract with the health care service plan, for the purpose of administering the health care service plan. Medical information may not otherwise be disclosed by a health care service plan except in accordance with the provisions of this part.

(11) Nothing in this part shall prevent the disclosure by a provider of health care or a health care service plan to an insurance institution, agent, or support organization, subject to Article 6.6 (commencing with Section 791) of Part 2 of Division 1 of the Insurance Code, of medical information if the insurance institution, agent, or support organization has complied with all requirements for obtaining the information pursuant to Article 6.6 (commencing with Section 791) of Part 2 of Division 1 of the Insurance Code.

(12) The information relevant to the patient's condition and care and treatment provided may be disclosed to a probate court investigator in the course of any investigation required or authorized in a conservatorship proceeding under the Guardianship-Conservatorship Law as defined in Section 1400 of the Probate Code, or to a probate court investigator, probation officer, or domestic relations investigator engaged in determining the need for an initial guardianship or continuation of an existent guardianship.

(13) The information may be disclosed to an organ procurement organization or a tissue bank processing the tissue of a decedent for transplantation into the body of another person, but only with respect to the donating decedent, for the purpose of aiding the transplant. For the purpose of this paragraph, the terms "tissue bank" and "tissue" have the same meaning as defined in Section 1635 of the Health and Safety Code.

(14) The information may be disclosed when the disclosure is otherwise specifically authorized by law, including, but not limited to, the voluntary reporting, either directly or indirectly, to the federal Food and Drug Administration of adverse events related to drug products or medical device problems.

(15) Basic information, including the patient's name, city of residence, age, sex, and general condition, may be disclosed to a state or federally recognized disaster relief organization for the purpose of responding to disaster welfare inquiries.

(16) The information may be disclosed to a third party for purposes of encoding, encrypting, or otherwise anonymizing data. However, no information so disclosed shall be further disclosed by the recipient in any way that would violate this part, including the unauthorized manipulation of coded or encrypted medical information that reveals individually identifiable medical information.

(17) For purposes of disease management programs and services as defined in Section 1399.901 of the Health and Safety Code, information may be disclosed as follows: (A) to an entity contracting with a health care service plan or the health care service plan's contractors to monitor or administer care of enrollees for a covered benefit, if the disease management services and care are authorized by a treating physician, or (B) to a disease management organization, as defined in Section 1399.900 of the Health and Safety Code, that complies fully with the physician authorization requirements of Section 1399.902 of the Health and Safety Code, if the health care service plan or its contractor provides or has provided a description of the disease management services to a treating physician or to the health care service plan's or contractor's network of physicians. Nothing in this paragraph shall be construed to require physician authorization for the care or treatment of the adherents of a well-recognized church or religious denomination who depend solely upon prayer or spiritual means for healing in the practice of the religion of that church or denomination.

(18) The information may be disclosed, as permitted by state and federal law or regulation, to a local health department for the purpose of preventing or controlling disease, injury, or disability, including, but not limited to, the reporting of disease, injury, vital events, including, but not limited to, birth or death, and the conduct of public health surveillance, public health investigations, and public health interventions, as authorized or required by state or federal law or regulation.

(19) The information may be disclosed, consistent with applicable law and standards of ethical conduct, by a psychotherapist, as defined in Section 1010 of the Evidence Code, if the psychotherapist, in good faith, believes the disclosure is necessary to prevent or lessen a serious

and imminent threat to the health or safety of a reasonably foreseeable victim or victims, and the disclosure is made to a person or persons reasonably able to prevent or lessen the threat, including the target of the threat.

(20) The information may be disclosed as described in Section 56.103.

(d) Except to the extent expressly authorized by the patient or enrollee or subscriber or as provided by subdivisions (b) and (c), no provider of health care, health care service plan, contractor, or corporation and its subsidiaries and affiliates shall intentionally share, sell, use for marketing, or otherwise use any medical information for any purpose not necessary to provide health care services to the patient.

(e) Except to the extent expressly authorized by the patient or enrollee or subscriber or as provided by subdivisions (b) and (c), no contractor or corporation and its subsidiaries and affiliates shall further disclose medical information regarding a patient of the provider of health care or an enrollee or subscriber of a health care service plan or insurer or self-insured employer received under this section to any person or entity that is not engaged in providing direct health care services to the patient or his or her provider of health care or health care service plan or insurer or self-insured employer.

SEC. 2. Section 1456 of the Probate Code is amended to read:

1456. (a) In addition to any other requirements that are part of the judicial branch education program, on or before January 1, 2008, the Judicial Council shall adopt a rule of court that shall do all of the following:

(1) Specifies the qualifications of a court-employed staff attorney, examiner, and investigator, and any attorney appointed pursuant to Sections 1470 and 1471.

(2) Specifies the number of hours of education in classes related to conservatorships or guardianships that a judge who is regularly assigned to hear probate matters shall complete, upon assuming the probate assignment, and then over a three-year period on an ongoing basis.

(3) Specifies the number of hours of education in classes related to conservatorships or guardianships that a court-employed staff attorney, examiner, and investigator, and any attorney appointed pursuant to Sections 1470 and 1471 shall complete each year.

(4) Specifies the particular subject matter that shall be included in the education required each year.

(5) Specifies reporting requirements to ensure compliance with this section.

(b) In formulating the rule required by this section, the Judicial Council shall consult with interested parties, including, but not limited to, the California Judges Association, the California Association of

Superior Court Investigators, the California Public Defenders Association, the County Counsels' Association of California, the State Bar of California, the National Guardianship Association, the Professional Fiduciary Association of California, the California Association of Public Administrators, Public Guardians and Public Conservators, a disability rights organization, and the Association of Professional Geriatric Care Managers.

SEC. 3. Section 1456.5 is added to the Probate Code, to read:

1456.5. Each court shall ensure compliance with the requirements of filing the inventory and appraisal and the accountings required by this division. Courts may comply with this section in either of the following ways:

(a) By placing on the court's calendar, at the time of the appointment of the guardian or conservator and at the time of approval of each accounting, a future hearing date to enable the court to confirm timely compliance with these requirements.

(b) By establishing and maintaining internal procedures to generate an order for appearance and consideration of appropriate sanctions or other actions if the guardian or conservator fails to comply with the requirements of this section.

SEC. 3.5. Section 1456.5 is added to the Probate Code, to read:

1456.5. Each court shall ensure compliance with the requirements for submitting the care plan described in Section 1831, the followup report described in Section 1832, and filing the inventory and appraisal and the accountings required by this division. Courts may comply with this section in either of the following ways:

(a) By placing on the court's calendar, at the time of the appointment of the guardian or conservator and at the time of approval of each accounting, a future hearing date to enable the court to confirm timely compliance with these requirements.

(b) By establishing and maintaining internal procedures to generate an order for appearance and consideration of appropriate sanctions or other actions if the guardian or conservator fails to comply with the requirements of this section.

SEC. 4. Section 1457 of the Probate Code is amended to read:

1457. In order to assist relatives and friends who may seek appointment as a nonprofessional conservator or guardian the Judicial Council shall, on or before January 1, 2008, develop a short educational program of no more than three hours that is user-friendly and shall make that program available free of charge to each proposed conservator and guardian and each court-appointed conservator and guardian who is not required to be licensed as a professional conservator or guardian pursuant to Chapter 6 (commencing with Section 6500) of Division 3 of the

Business and Professions Code. The program may be available by video presentation or Internet access.

SEC. 5. Section 1458 of the Probate Code is amended to read:

1458. (a) On or before January 1, 2008, the Judicial Council shall report to the Legislature the findings of a study measuring court effectiveness in conservatorship cases. The report shall include all of the following with respect to the courts chosen for evaluation:

(1) A summary of caseload statistics, including both temporary and permanent conservatorships, bonds, court investigations, accountings, and use of professional conservators.

(2) An analysis of compliance with statutory timeframes.

(3) A description of any operational differences between courts that affect the processing of conservatorship cases, including timeframes.

(b) The Judicial Council shall select three courts for the evaluation mandated by this section.

(c) The report shall include recommendations for statewide performance measures to be collected, best practices that serve to protect the rights of conservatees, and staffing needs to meet case processing measures.

(d) This section shall remain in effect only until January 1, 2009, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2009, deletes or extends that date.

SEC. 6. Section 1800.3 of the Probate Code is amended to read:

1800.3. (a) If the need therefor is established to the satisfaction of the court and the other requirements of this chapter are satisfied, the court may appoint:

(1) A conservator of the person or estate of an adult, or both.

(2) A conservator of the person of a minor who is married or whose marriage has been dissolved.

(b) No conservatorship of the person or of the estate shall be granted by the court unless the court makes an express finding that the granting of the conservatorship is the least restrictive alternative needed for the protection of the conservatee.

SEC. 7. Section 1826 of the Probate Code, as amended by Section 8 of Chapter 493 of the Statutes of 2006, is amended to read:

1826. Regardless of whether the proposed conservatee attends the hearing, the court investigator shall do all of the following:

(a) Conduct the following interviews:

(1) The proposed conservatee personally.

(2) All petitioners and all proposed conservators who are not petitioners.

(3) The proposed conservatee's spouse or registered domestic partner and relatives within the first degree. If the proposed conservatee does

not have a spouse, registered domestic partner, or relatives within the first degree, to the greatest extent possible, the proposed conservatee's relatives within the second degree.

(4) To the greatest extent practical and taking into account the proposed conservatee's wishes, the proposed conservatee's relatives within the second degree not required to be interviewed under paragraph (3), neighbors, and, if known, close friends.

(b) Inform the proposed conservatee of the contents of the citation, of the nature, purpose, and effect of the proceeding, and of the right of the proposed conservatee to oppose the proceeding, to attend the hearing, to have the matter of the establishment of the conservatorship tried by jury, to be represented by legal counsel if the proposed conservatee so chooses, and to have legal counsel appointed by the court if unable to retain legal counsel.

(c) Determine whether it appears that the proposed conservatee is unable to attend the hearing and, if able to attend, whether the proposed conservatee is willing to attend the hearing.

(d) Review the allegations of the petition as to why the appointment of the conservator is required and, in making his or her determination, do the following:

(1) Refer to the supplemental information form submitted by the petitioner and consider the facts set forth in the form that address each of the categories specified in paragraphs (1) to (5), inclusive, of subdivision (a) of Section 1821.

(2) Consider, to the extent practicable, whether he or she believes the proposed conservatee suffers from any of the mental function deficits listed in subdivision (a) of Section 811 that significantly impairs the proposed conservatee's ability to understand and appreciate the consequences of his or her actions in connection with any of the functions described in subdivision (a) or (b) of Section 1801 and identify the observations that support that belief.

(e) Determine whether the proposed conservatee wishes to contest the establishment of the conservatorship.

(f) Determine whether the proposed conservatee objects to the proposed conservator or prefers another person to act as conservator.

(g) Determine whether the proposed conservatee wishes to be represented by legal counsel and, if so, whether the proposed conservatee has retained legal counsel and, if not, the name of an attorney the proposed conservatee wishes to retain.

(h) Determine whether the proposed conservatee is capable of completing an affidavit of voter registration.

(i) If the proposed conservatee has not retained legal counsel, determine whether the proposed conservatee desires the court to appoint legal counsel.

(j) Determine whether the appointment of legal counsel would be helpful to the resolution of the matter or is necessary to protect the interests of the proposed conservatee in any case where the proposed conservatee does not plan to retain legal counsel and has not requested the appointment of legal counsel by the court.

(k) Report to the court in writing, at least five days before the hearing, concerning all of the foregoing, including the proposed conservatee's express communications concerning both of the following:

(1) Representation by legal counsel.

(2) Whether the proposed conservatee is not willing to attend the hearing, does not wish to contest the establishment of the conservatorship, and does not object to the proposed conservator or prefer that another person act as conservator.

(*l*) Mail, at least five days before the hearing, a copy of the report referred to in subdivision (k) to all of the following:

(1) The attorney, if any, for the petitioner.

(2) The attorney, if any, for the proposed conservatee.

(3) The proposed conservatee.

(4) The spouse, registered domestic partner, and relatives within the first degree of the proposed conservatee who are required to be named in the petition for appointment of the conservator, unless the court determines that the mailing will result in harm to the conservatee.

(5) Any other persons as the court orders.

(m) The court investigator has discretion to release the report required by this section to the public conservator, interested public agencies, and the long-term care ombudsman.

(n) The report required by this section is confidential and shall be made available only to parties, persons described in subdivision (*l*), persons given notice of the petition who have requested this report or who have appeared in the proceedings, their attorneys, and the court. The court has discretion at any other time to release the report, if it would serve the interests of the conservatee. The clerk of the court shall provide for the limitation of the report exclusively to persons entitled to its receipt.

(o) This section does not apply to a proposed conservatee who has personally executed the petition for conservatorship, or one who has nominated his or her own conservator, if he or she attends the hearing.

(p) If the court investigator has performed an investigation within the preceding six months and furnished a report thereon to the court, the

court may order, upon good cause shown, that another investigation is not necessary or that a more limited investigation may be performed.

(q) Any investigation by the court investigator related to a temporary conservatorship also may be a part of the investigation for the general petition for conservatorship, but the court investigator shall make a second visit to the proposed conservatee and the report required by this section shall include the effect of the temporary conservatorship on the proposed conservatee.

(r) The Judicial Council shall, on or before January 1, 2009, adopt rules of court and Judicial Council forms as necessary to implement an expedited procedure to authorize, by court order, a proposed conservatee's health care provider to disclose confidential medical information about the proposed conservatee to a court investigator pursuant to federal medical information privacy regulations promulgated under the Health Insurance Portability and Accountability Act of 1996.

SEC. 8. Section 1830 of the Probate Code is amended to read:

1830. (a) The order appointing the conservator shall contain, among other things, the names, addresses, and telephone numbers of:

(1) The conservator.

(2) The conservatee's attorney, if any.

(3) The court investigator, if any.

(b) In the case of a limited conservator for a developmentally disabled adult, any order the court may make shall include the findings of the court specified in Section 1828.5. The order shall specify the powers granted to and duties imposed upon the limited conservator, which powers and duties may not exceed the powers and duties applicable to a conservator under this code. The order shall also specify the following:

(1) The properties of the limited conservatee to which the limited conservator is entitled to possession and management, giving a description of the properties that will be sufficient to identify them.

(2) The debts, rentals, wages, or other claims due to the limited conservatee which the limited conservator is entitled to collect, or file suit with respect to, if necessary, and thereafter to possess and manage.

(3) The contractual or other obligations which the limited conservator may incur on behalf of the limited conservatee.

(4) The claims against the limited conservatee which the limited conservator may pay, compromise, or defend, if necessary.

(5) Any other powers, limitations, or duties with respect to the care of the limited conservatee or the management of the property specified in this subdivision by the limited conservator which the court shall specifically and expressly grant.

(c) An information notice of the rights of conservatees shall be attached to the order. The conservator shall mail the order and the attached

information notice to the conservatee and the conservatee's relatives, as set forth in subdivision (b) of Section 1821, within 30 days of the issuance of the order. By January 1, 2008, the Judicial Council shall develop the notice required by this subdivision.

SEC. 9. Section 1851 of the Probate Code, as amended by Section 12.5 of Chapter 493 of the Statutes of 2006, is amended to read:

1851. (a) When court review is required pursuant to Section 1850, the court investigator shall, without prior notice to the conservator except as ordered by the court for necessity or to prevent harm to the conservatee, visit the conservatee. The court investigator shall inform the conservatee personally that the conservatee is under a conservatorship and shall give the name of the conservator to the conservatee. The court investigator shall determine whether the conservatee wishes to petition the court for termination of the conservatorship, whether the conservatee is still in need of the conservatorship, whether the present conservator is acting in the best interests of the conservatee, and whether the conservatee is capable of completing an affidavit of voter registration. In determining whether the conservator is acting in the best interests of the conservatee, the court investigator's evaluation shall include an examination of the conservatee's placement, the quality of care, including physical and mental treatment, and the conservatee's finances. To the extent practicable, the investigator shall review the accounting with a conservatee who has sufficient capacity. To the greatest extent possible, the court investigator shall interview individuals set forth in subdivision (a) of Section 1826, in order to determine if the conservator is acting in the best interests of the conservatee. If the court has made an order under Chapter 4 (commencing with Section 1870), the court investigator shall determine whether the present condition of the conservatee is such that the terms of the order should be modified or the order revoked. Upon request of the court investigator, the conservator shall make available to the court investigator during the investigation for inspection and copying all books and records, including receipts and any expenditures, of the conservatorship.

(b) (1) The findings of the court investigator, including the facts upon which the findings are based, shall be certified in writing to the court not less than 15 days prior to the date of review. A copy of the report shall be mailed to the conservator and to the attorneys of record for the conservator and conservatee at the same time it is certified to the court. A copy of the report, modified as set forth in paragraph (2), also shall be mailed to the conservatee's spouse or registered domestic partner, the conservatee's relatives in the first degree, and if there are no such relatives, to the next closest relative, unless the court determines that the mailing will result in harm to the conservatee.

(2) Confidential medical information and confidential information from the California Law Enforcement Telecommunications System shall be in a separate attachment to the report and shall not be provided in copies sent to the conservatee's spouse or registered domestic partner, the conservatee's relatives in the first degree, and if there are no such relatives, to the next closest relative.

(c) In the case of a limited conservatee, the court investigator shall make a recommendation regarding the continuation or termination of the limited conservatorship.

(d) The court investigator may personally visit the conservator and other persons as may be necessary to determine whether the present conservator is acting in the best interests of the conservatee.

(e) The report required by this section shall be confidential and shall be made available only to parties, persons described in subdivision (b), persons given notice of the petition who have requested the report or who have appeared in the proceeding, their attorneys, and the court. The court shall have discretion at any other time to release the report if it would serve the interests of the conservatee. The clerk of the court shall make provision for limiting disclosure of the report exclusively to persons entitled thereto under this section.

(f) The amendments made to this section by the act adding this subdivision shall become operative on July 1, 2007.

SEC. 10. Section 1851.2 is added to the Probate Code, to read:

1851.2. Each court shall coordinate investigations with the filing of accountings, so that investigators may review accountings before visiting conservatees, if feasible.

SEC. 11. Section 2217 is added to the Probate Code, to read:

2217. (a) When an order has been made transferring venue to another county, the court transferring the matter shall set a hearing within two months to confirm receipt of the notification described in subdivision (b). If the notification has not been made, the transferring court shall make reasonable inquiry into the status of the matter.

(b) When a court receives the file of a transferred guardianship or conservatorship, the court:

(1) Shall send written notification of the receipt to the court that transferred the matter.

(2) Shall take proper action pursuant to ensure compliance by the guardian or conservator with the matters provided in Section 1456.5.

(3) If the case is a conservatorship, may conduct a review, including an investigation, as described in Sections 1851 to 1853, inclusive.

SEC. 12. Section 2250 of the Probate Code, as amended by Section 15 of Chapter 493 of the Statutes of 2006, is amended to read:

2250. (a) On or after the filing of a petition for appointment of a guardian or conservator, any person entitled to petition for appointment of the guardian or conservator may file a petition for appointment of:

(1) A temporary guardian of the person or estate or both.

(2) A temporary conservator of the person or estate or both.

(b) The petition shall state facts which establish good cause for appointment of the temporary guardian or temporary conservator. The court, upon that petition or other showing as it may require, may appoint a temporary guardian of the person or estate or both, or a temporary conservator of the person or estate or both, to serve pending the final determination of the court upon the petition for the appointment of the guardian or conservator.

(c) If the petitioner is a private professional conservator under Section 2341 or licensed under the Professional Fiduciaries Act, Chapter 6 (commencing with Section 6500) of Division 3 of the Business and Professions Code, the petition for appointment of a temporary conservator shall include both of the following:

(1) A statement of the petitioner's registration or license information.

(2) A statement explaining who engaged the petitioner or how the petitioner was engaged to file the petition for appointment of a temporary conservator and what prior relationship the petitioner had with the proposed conservatee or the proposed conservatee's family or friends, unless that information is included in a petition for appointment of a general conservator filed at the same time by the person who filed the petition for appointment of a temporary conservator.

(d) If the petition is filed by a party other than the proposed conservatee, the petition shall include a declaration of due diligence showing both of the following:

(1) Either the efforts to find the proposed conservatee's relatives named in the petition for appointment of a general conservator or why it was not feasible to contact any of them.

(2) Either the preferences of the proposed conservatee concerning the appointment of a temporary conservator and the appointment of the proposed temporary conservator or why it was not feasible to ascertain those preferences.

(e) Unless the court for good cause otherwise orders, at least five days before the hearing on the petition, notice of the hearing shall be given as follows:

(1) Notice of the hearing shall be personally delivered to the proposed ward if he or she is 12 years of age or older, to the parent or parents of the proposed ward, and to any person having a valid visitation order with the proposed ward that was effective at the time of the filing of the petition. Notice of the hearing shall not be delivered to the proposed

ward if he or she is under 12 years of age. In a proceeding for temporary guardianship of the person, evidence that a custodial parent has died or become incapacitated, and that the petitioner is the nominee of the custodial parent, may constitute good cause for the court to order that this notice not be delivered.

(2) Notice of the hearing shall be personally delivered to the proposed conservatee, and notice of the hearing shall be served on the persons required to be named in the petition for appointment of conservator. If the petition states that the petitioner and the proposed conservator have no prior relationship with the proposed conservatee and has not been nominated by a family member, friend, or other person with a relationship to the proposed conservatee, notice of hearing shall be served on the public guardian of the county in which the petition is filed.

(3) A copy of the petition for temporary appointment shall be served with the notice of hearing.

(f) If a temporary guardianship is granted ex parte and the hearing on the general guardianship petition is not to be held within 30 days of the granting of the temporary guardianship, the court shall set a hearing within 30 days to reconsider the temporary guardianship. Notice of the hearing for reconsideration of the temporary guardianship shall be provided pursuant to Section 1511, except that the court may for good cause shorten the time for the notice of the hearing.

(g) Visitation orders with the proposed ward granted prior to the filing of a petition for temporary guardianship shall remain in effect, unless for good cause the court orders otherwise.

(h) (1) If a temporary conservatorship is granted ex parte, and a petition to terminate the temporary conservatorship is filed more than 15 days before the first hearing on the general petition for appointment of conservator, the court shall set a hearing within 15 days of the filing of the petition for termination of the temporary conservatorship to reconsider the temporary conservatorship. Unless the court otherwise orders, notice of the hearing on the petition to terminate the temporary conservatorship shall be given at least 10 days prior to the hearing.

(2) If a petition to terminate the temporary conservatorship is filed within 15 days before the first hearing on the general petition for appointment of conservator, the court shall set the hearing at the same time that the hearing on the general petition is set. Unless the court otherwise orders, notice of the hearing on the petition to terminate the temporary conservatorship pursuant to this section shall be given at least five court days prior to the hearing.

(i) If the court suspends powers of the guardian or conservator under Section 2334 or 2654 or under any other provision of this division, the court may appoint a temporary guardian or conservator to exercise those

powers until the powers are restored to the guardian or conservator or a new guardian or conservator is appointed.

(j) If for any reason a vacancy occurs in the office of guardian or conservator, the court, on a petition filed under subdivision (a) or on its own motion, may appoint a temporary guardian or conservator to exercise the powers of the guardian or conservator until a new guardian or conservator is appointed.

(k) On or before January 1, 2008, the Judicial Council shall adopt a rule of court that establishes uniform standards for good cause exceptions to the notice required by subdivision (c), limiting those exceptions to only cases when waiver of the notice is essential to protect the proposed conservatee or ward, or the estate of the proposed conservatee or ward, from substantial harm.

SEC. 12.5. Section 2250.2 of the Probate Code is amended to read:

2250.2. (a) On or after the filing of a petition for appointment of a conservator, any person entitled to petition for appointment of the conservator may file a petition for appointment of a temporary conservator of the person or estate or both.

(b) The petition shall state facts that establish good cause for appointment of the temporary conservator. The court, upon that petition or any other showing as it may require, may appoint a temporary conservator of the person or estate or both, to serve pending the final determination of the court upon the petition for the appointment of the conservator.

(c) Unless the court for good cause otherwise orders, not less than five days before the appointment of the temporary conservator, notice of the proposed appointment shall be personally delivered to the proposed conservatee.

(d) If the court suspends powers of the conservator under Section 2334 or 2654 or under any other provision of this division, the court may appoint a temporary conservator to exercise those powers until the powers are restored to the conservator or a new conservator is appointed.

(e) If for any reason a vacancy occurs in the office of conservator, the court, on a petition filed under subdivision (a) or on its own motion, may appoint a temporary conservator to exercise the powers of the conservator until a new conservator is appointed.

(f) This section shall only apply to proceedings under Chapter 3 (commencing with Section 5350) of Part 1 of Division 5 of the Welfare and Institutions Code.

SEC. 13. Section 2250.6 of the Probate Code is amended to read:

2250.6. (a) Regardless of whether the proposed temporary conservatee attends the hearing, the court investigator shall do all of the following prior to the hearing, unless it is not feasible to do so, in which

case the court investigator shall comply with the requirements set forth in subdivision (b):

(1) Interview the proposed conservatee personally. The court investigator also shall do all of the following:

(A) Interview the petitioner and the proposed conservator, if different from the petitioner.

(B) To the greatest extent possible, interview the proposed conservatee's spouse or registered domestic partner, relatives within the first degree, neighbors and, if known, close friends.

(C) To the extent possible, interview the proposed conservatee's relatives within the second degree as set forth in subdivision (b) of Section 1821 before the hearing.

(2) Inform the proposed conservatee of the contents of the citation, of the nature, purpose, and effect of the temporary conservatorship, and of the right of the proposed conservatee to oppose the proceeding, to attend the hearing, to have the matter of the establishment of the conservatorship tried by jury, to be represented by legal counsel if the proposed conservatee so chooses, and to have legal counsel appointed by the court if unable to retain legal counsel.

(3) Determine whether it appears that the proposed conservatee is unable to attend the hearing and, if able to attend, whether the proposed conservatee is willing to attend the hearing.

(4) Determine whether the proposed conservatee wishes to contest the establishment of the conservatorship.

(5) Determine whether the proposed conservatee objects to the proposed conservator or prefers another person to act as conservator.

(6) Report to the court, in writing, concerning all of the foregoing.

(b) If not feasible before the hearing, the court investigator shall do all of the following within two court days after the hearing:

(1) Interview the conservatee personally. The court investigator also shall do all of the following:

(A) Interview the petitioner and the proposed conservator, if different from the petitioner.

(B) To the greatest extent possible, interview the proposed conservatee's spouse or registered domestic partner, relatives within the first degree, neighbors and, if known, close friends.

(C) To the extent possible, interview the proposed conservatee's relatives within the second degree as set forth in subdivision (b) of Section 1821.

(2) Inform the conservatee of the nature, purpose, and effect of the temporary conservatorship, as well as the right of the conservatee to oppose the proposed general conservatorship, to attend the hearing, to have the matter of the establishment of the conservatorship tried by jury,

to be represented by legal counsel if the proposed conservatee so chooses, and to have legal counsel appointed by the court if unable to retain legal counsel.

(c) If the investigator does not visit the conservatee until after the hearing at which a temporary conservator was appointed, and the conservatee objects to the appointment of the temporary conservator, or requests an attorney, the court investigator shall report this information promptly, and in no event more than three court days later, to the court. Upon receipt of that information, the court may proceed with appointment of an attorney as provided in Chapter 4 (commencing with Section 1470) of Part 1.

(d) If it appears to the court investigator that the temporary conservatorship is inappropriate, the court investigator shall immediately, and in no event more than two court days later, provide a written report to the court so the court can consider taking appropriate action on its own motion.

SEC. 14. Section 2257 of the Probate Code is amended to read:

2257. (a) Except as provided in subdivision (b), the powers of a temporary guardian or temporary conservator terminate, except for the rendering of the account, at the earliest of the following times:

(1) The time the temporary guardian or conservator acquires notice that a guardian or conservator is appointed and qualified.

(2) Thirty days after the appointment of the temporary guardian or temporary conservator or such earlier time as the court may specify in the order of appointment.

(b) With or without notice as the court may require, the court may for good cause order that the time for the termination of the powers of the temporary guardian or temporary conservator be extended or shortened pending final determination by the court of the petition for appointment of a guardian or conservator or pending the final decision on appeal therefrom or for other cause. The order which extends the time for termination shall fix the time when the powers of the temporary guardian or temporary conservator terminate except for the rendering of the account.

SEC. 15. Section 2320 of the Probate Code is amended to read:

2320. (a) Except as otherwise provided by statute, every person appointed as guardian or conservator shall, before letters are issued, give a bond approved by the court.

(b) The bond shall be for the benefit of the ward or conservatee and all persons interested in the guardianship or conservatorship estate and shall be conditioned upon the faithful execution of the duties of the office, according to law, by the guardian or conservator.

(c) Except as otherwise provided by statute, unless the court increases or decreases the amount upon a showing of good cause, the amount of a bond given by an admitted surety insurer shall be the sum of all of the following:

(1) The value of the personal property of the estate.

(2) The probable annual gross income of all of the property of the estate.

(3) The sum of the probable annual gross payments from the following:

(A) Part 3 (commencing with Section 11000) of, Part 4 (commencing with Section 16000) of, or Part 5 (commencing with Section 17000) of, Division 9 of the Welfare and Institutions Code.

(B) Subchapter II (commencing with Section 401) of, or Part A of Subchapter XVI (commencing with Section 1382) of, Chapter 7 of Title 42 of the United States Code.

(C) Any other public entitlements of the ward or conservatee.

(4) On or after January 1, 2008, a reasonable amount for the cost of recovery to collect on the bond, including attorney's fees and costs. The attorney's fees and costs incurred in a successful action for surcharge against a conservator or guardian for breach of his or her duty under this code shall be a surcharge against the conservator or guardian and, if unpaid, shall be recovered against the surety on the bond. The Judicial Council shall, on or before January 1, 2008, adopt a rule of court to implement this paragraph.

(d) If the bond is given by personal sureties, the amount of the bond shall be twice the amount required for a bond given by an admitted surety insurer.

(e) The Bond and Undertaking Law (Chapter 2 (commencing with Section 995.010) of Title 14 of Part 2 of the Code of Civil Procedure) applies to a bond given under this article, except to the extent inconsistent with this article.

SEC. 16. Section 2451.5 is added to the Probate Code, to read:

2451.5. The guardian or conservator may do any of the following:

(a) Contract for the guardianship or conservatorship, perform outstanding contracts, and, thereby, bind the estate.

(b) Purchase tangible personal property.

(c) Subject to the provisions of Chapter 8 (commencing with Section 2640), employ an attorney to advise and represent the guardian or conservator in all matters, including the conservatorship proceeding and all other actions or proceedings.

(d) Employ and pay the expense of accountants, investment advisers, agents, depositaries, and employees.

(e) Operate for a period of 45 days after the issuance of the letters of guardianship or conservatorship, at the risk of the estate, a business, farm, or enterprise constituting an asset of the estate.

SEC. 17. Section 2543 of the Probate Code is amended to read:

2543. (a) If estate property is required or permitted to be sold, the guardian or conservator may:

(1) Use discretion as to which property to sell first.

(2) Sell the entire interest of the estate in the property or any lesser interest therein.

(3) Sell the property either at public auction or private sale.

(b) Subject to Section 1469, unless otherwise specifically provided in this article, all proceedings concerning sales by guardians or conservators, publishing and posting notice of sale, reappraisal for sale, minimum offer price for the property, reselling the property, report of sale and petition for confirmation of sale, and notice and hearing of that petition, making orders authorizing sales, rejecting or confirming sales and reports of sales, ordering and making conveyances of property sold, and allowance of commissions, shall conform, as nearly as may be, to the provisions of this code concerning sales by a personal representative, including, but not limited to, Articles 6 (commencing with Section 10300), 7 (commencing with Section 10350), 8 (commencing with Section 10360), and 9 (commencing with Section 10380) of Chapter 18 of Part 5 of Division 7. The provisions concerning sales by a personal representative as described in the Independent Administration of Estates Act, Part 6 (commencing with Section 10400) of Division 7 shall not apply to this subdivision.

(c) Notwithstanding Section 10309, if the last appraisal of the conservatee's personal residence was conducted more than six months prior to the confirmation hearing, a new appraisal shall be required prior to the confirmation hearing, unless the court finds that it is in the best interests of the conservatee to rely on an appraisal of the personal residence that was conducted not more than one year prior to the confirmation hearing.

(d) The clerk of the court shall cause notice to be posted pursuant to subdivision (b) only in the following cases:

(1) If posting of notice of hearing is required on a petition for the confirmation of a sale of real or personal property of the estate.

(2) If posting of notice of a sale governed by Section 10250 (sales of personal property) is required or authorized.

(3) If posting of notice is ordered by the court.

SEC. 18. Section 2590 of the Probate Code is amended to read:

2590. (a) The court may, in its discretion, make an order granting the guardian or conservator any one or more or all of the powers specified

in Section 2591 if the court determines that, under the circumstances of the particular guardianship or conservatorship, it would be to the advantage, benefit, and best interest of the estate to do so. Subject only to the requirements, conditions, or limitations as are specifically and expressly provided, either directly or by reference, in the order granting the power or powers, and if consistent with Section 2591, the guardian or conservator may exercise the granted power or powers without notice, hearing, or court authorization, instructions, approval, or confirmation in the same manner as the ward or conservatee could do if possessed of legal capacity.

(b) The guardian or conservator does not have a power specified in Section 2591 without authorization by a court under this article or other express provisions of this code.

SEC. 19. Section 2591 of the Probate Code is amended to read:

2591. The powers referred to in Section 2590 are:

(a) The power to operate, for a period longer than 45 days, at the risk of the estate a business, farm, or enterprise constituting an asset of the estate.

(b) The power to grant and take options.

(c) (1) The power to sell at public or private sale real or personal property of the estate without confirmation of the court of the sale, other than the personal residence of a conservatee.

(2) The power to sell at public or private sale the personal residence of the conservatee as described in Section 2591.5 without confirmation of the court of the sale. The power granted pursuant to this paragraph is subject to the requirements of Sections 2352.5 and 2541.

(3) For purposes of this subdivision, authority to sell property includes authority to contract for the sale and fulfill the terms and conditions of the contract, including conveyance of the property.

(d) The power to create by grant or otherwise easements and servitudes.

(e) The power to borrow money.

(f) The power to give security for the repayment of a loan.

(g) The power to purchase real or personal property.

(h) The power to alter, improve, raze, replace, and rebuild property of the estate.

(i) The power to let or lease property of the estate, or extend, renew, or modify a lease of real property, for which the monthly rental or lease term exceeds the maximum specified in Sections 2501 and 2555 for any purpose (including exploration for and removal of gas, oil, and other minerals and natural resources) and for any period, including a term commencing at a future time.

(j) The power to lend money on adequate security.

(k) The power to exchange property of the estate.

(*l*) The power to sell property of the estate on credit if any unpaid portion of the selling price is adequately secured.

(m) The power to commence and maintain an action for partition.

(n) The power to exercise stock rights and stock options.

(o) The power to participate in and become subject to and to consent to the provisions of a voting trust and of a reorganization, consolidation, merger, dissolution, liquidation, or other modification or adjustment affecting estate property.

(p) The power to pay, collect, compromise, or otherwise adjust claims, debts, or demands upon the guardianship or conservatorship described in subdivision (a) of Section 2501, Section 2502 or 2504, or to arbitrate any dispute described in Section 2406.

SEC. 20. Section 2591.5 of the Probate Code is amended to read:

2591.5. (a) Notwithstanding any other provisions of this article, a conservator seeking an order under Section 2590 authorizing a sale of the conservatee's personal residence shall demonstrate to the court that the terms of sale, including the price for which the property is to be sold and the commissions to be paid from the estate, are in all respects in the best interests of the conservatee.

(b) A conservator authorized to sell the conservatee's personal residence pursuant to Section 2590 shall comply with the provisions of Section 10309 concerning appraisal or new appraisal of the property for sale and sale at a minimum offer price. Notwithstanding Section 10309, if the last appraisal of the conservatee's personal residence was conducted more than six months prior to the proposed sale of the property, a new appraisal shall be required prior to the sale of the property, unless the court finds that it is in the best interests of the conservatee to rely on an appraisal of the personal residence that was conducted not more than one year prior to the proposed sale of the property. For purposes of this section, the date of sale is the date of the contract for sale of the property.

(c) Within 15 days of the close of escrow, the conservator shall serve a copy of the final escrow settlement statement on all persons entitled to notice of the petition for appointment for a conservator and all persons who have filed and served a request for special notice and shall file a copy of the final escrow statement along with a proof of service with the court.

(d) The court may, for good cause, waive any of the requirements of this section.

SEC. 21. Section 2620.1 is added to the Probate Code, to read:

2620.1. The Judicial Council shall, by January 1, 2009, develop guidelines to assist investigators and examiners in reviewing accountings and detecting fraud.

SEC. 22. Section 2620.2 of the Probate Code is amended to read:

2620.2. (a) Whenever the conservator or guardian has failed to file an accounting as required by Section 2620, the court shall require that written notice be given to the conservator or guardian and the attorney of record for the conservatorship or guardianship directing the conservator or guardian to file an accounting and to set the accounting for hearing before the court within 30 days of the date of the notice or, if the conservator or guardian is a public agency, within 45 days of the date of the notice. The court may, upon cause shown, grant an additional 30 days to file the accounting.

(b) Failure to file the accounting within the time specified under subdivision (a), or within 45 days of actual receipt of the notice, whichever is later, shall constitute a contempt of the authority of the court as described in Section 1209 of the Code of Civil Procedure.

(c) If the conservator or guardian does not file an accounting with all appropriate supporting documentation and set the accounting for hearing as required by Section 2620, the court shall do one or more of the following and shall report that action to the bureau established pursuant to Section 6510 of the Business and Professions Code:

(1) Remove the conservator or guardian as provided under Article 1 (commencing with Section 2650) of Chapter 9 of Part 4 of Division 4.

(2) Issue and serve a citation requiring a guardian or conservator who does not file a required accounting to appear and show cause why the guardian or conservator should not be punished for contempt. If the guardian or conservator purposely evades personal service of the citation, the guardian or conservator shall be immediately removed from office.

(3) Suspend the powers of the conservator or guardian and appoint a temporary conservator or guardian, who shall take possession of the assets of the conservatorship or guardianship, investigate the actions of the conservator or guardian, and petition for surcharge if this is in the best interests of the ward or conservatee. Compensation for the temporary conservator or guardian, and counsel for the temporary conservator or guardian, shall be treated as a surcharge against the conservator or guardian, and if unpaid shall be considered a breach of condition of the bond.

(4) (A) Appoint legal counsel to represent the ward or conservatee if the court has not suspended the powers of the conservator or guardian and appoint a temporary conservator or guardian pursuant to paragraph (3). Compensation for the counsel appointed for the ward or conservatee shall be treated as a surcharge against the conservator or guardian, and if unpaid shall be considered a breach of a condition on the bond, unless for good cause shown the court finds that counsel for the ward or

conservatee shall be compensated according to Section 1470. The court shall order the legal counsel to do one or more of the following:

(i) Investigate the actions of the conservator or guardian, and petition for surcharge if this is in the best interests of the ward or conservatee.

(ii) Recommend to the court whether the conservator or guardian should be removed.

(iii) Recommend to the court whether money or other property in the estate should be deposited pursuant to Section 2453, 2453.5, 2454, or 2455, to be subject to withdrawal only upon authorization of the court.

(B) After resolution of the matters for which legal counsel was appointed in subparagraph (A), the court shall terminate the appointment of legal counsel, unless the court determines that continued representation of the ward or conservatee and the estate is necessary and reasonable.

(5) If the conservator or guardian is exempt from the licensure requirements of Chapter 6 (commencing with Section 6500) of Division 3 of the Business and Professions Code, upon ex parte application or any notice as the court may require, extend the time to file the accounting, not to exceed an additional 30 days after the expiration of the deadline described in subdivision (a), where the court finds there is good cause and that the estate is adequately bonded. After expiration of any extensions, if the accounting has not been filed, the court shall take action as described in paragraphs (1) to (3), inclusive.

(d) Subdivision (c) does not preclude the court from additionally taking any other appropriate action in response to a failure to file a proper accounting in a timely manner.

SEC. 23. Section 2628 of the Probate Code is amended to read:

2628. (a) The court may make an order that the guardian or conservator need not present the accounts otherwise required by this chapter so long as all of the following conditions are satisfied:

(1) The estate at the beginning and end of the accounting period for which an account is otherwise required consisted of property, exclusive of the residence of the ward or conservatee, of a total net value of less than fifteen thousand dollars ($15,000).

(2) The income of the estate for each month of the accounting period, exclusive of public benefit payments, was less than two thousand dollars ($2,000).

(3) All income of the estate during the accounting period, if not retained, was spent for the benefit of the ward or conservatee.

(b) Notwithstanding that the court has made an order under subdivision (a), the ward or conservatee or any interested person may petition the court for an order requiring the guardian or conservator to present an account as otherwise required by this chapter or the court on its own motion may make that an order. An order under this subdivision may

be made ex parte or on such notice of hearing as the court in its discretion requires.

(c) For any accounting period during which all of the conditions of subdivision (a) are not satisfied, the guardian or conservator shall present the account as otherwise required by this chapter.

SEC. 24. Section 2647 is added to the Probate Code, to read:

2647. No attorney fees may be paid from the estate of the ward or conservatee without prior court order. The estate of the ward or conservatee is not obligated to pay attorney fees established by any engagement agreement or other contract until it has been approved by the court. This does not preclude an award of fees by the court pursuant to this chapter even if the contractual obligations are unenforceable pursuant to this section.

SEC. 25. Chapter 2 (commencing with Section 2910) is added to Part 5 of Division 4 of the Probate Code, to read:

Chapter 2. Prefiling Investigation by Public Guardian

2910. (a) Upon a showing of probable cause to believe that a person is in substantial danger of abuse or neglect and needs a conservator of the person, the estate, or the person and estate for his or her own protection, the public guardian or the county's adult protective services agency may petition for either or both of the orders of the court provided in subdivision (b) in connection with his or her investigation to determine whether a petition for the appointment of the public guardian as conservator of the person, estate, or the person and estate of the person would be necessary or appropriate.

(b) The petition may request either or both of the following orders for the limited purposes of the investigation concerning a person:

(1) An order authorizing identified health care providers or organizations to provide private medical information about the person to the public guardian's authorized representatives.

(2) An order authorizing identified financial institutions or advisers, accountants, and others with financial information about the person to provide the information to the public guardian's authorized representatives.

(c) Notice of the hearing and a copy of the petition shall be served on the person who is the subject of the investigation in the manner and for the period required by Section 1460 or, on application of the public guardian contained in or accompanying the petition, on an expedited basis in the manner and for the period ordered by the court. The court may dispense with notice of the hearing only on a showing of facts

demonstrating an immediate threat of substantial harm to the person if notice is given.

2911. A court order issued in response to a public guardian's petition pursuant to Section 2910 shall do all of the following:

(a) Authorize health care providers to disclose a person's confidential medical information as permitted under California law, and also authorize disclosure of the information under federal medical privacy regulations enacted pursuant to the Health Insurance Portability and Accountability Act of 1996.

(b) Direct the public guardian or the adult protective services agency to keep the information acquired under the order confidential, except as disclosed in a judicial proceeding or as required by law enforcement or an authorized regulatory agency.

(c) Direct the public guardian or the adult protective services agency to destroy all copies of written information obtained under the order or give them to the person who was the subject of the investigation if a conservatorship proceeding is not commenced within 60 days after the date of the order. The court may extend this time period as the court finds to be in the subject's best interest.

SEC. 26. The heading of Chapter 2 (commencing with Section 2920) of Part 5 of Division 4 of the Probate Code is amended and renumbered to read:

CHAPTER 3. APPOINTMENT OF PUBLIC GUARDIAN

SEC. 27. The heading of Chapter 3 (commencing with Section 2940) of Part 5 of Division 4 of the Probate Code is amended and renumbered to read:

CHAPTER 4. ADMINISTRATION BY PUBLIC GUARDIAN

SEC. 28. The heading of Chapter 4 (commencing with Section 2950) of Part 5 of Division 4 of the Probate Code is amended and renumbered to read:

CHAPTER 5. FINANCIAL ABUSE OF MENTALLY IMPAIRED ELDERS

SEC. 29. Section 3.5 of this bill shall become operative only if SB 800 is enacted and becomes effective on or before January 1, 2008, in which case Section 3 shall not become operative.

SEC. 30. (a) Section 1.5 of this bill incorporates amendments to Section 56.10 of the Civil Code proposed by both this bill and AB 1178. It shall only become operative if (1) both bills are enacted and become

effective on or before January 1, 2008, (2) each bill amends Section 56.10 of the Civil Code, (3) AB 1687 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 1178, in which case Sections 1, 1.7, and 1.9 of this bill shall not become operative.

(b) Section 1.7 of this bill incorporates amendments to Section 56.10 of the Civil Code proposed by both this bill and AB 1687. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2008, (2) each bill amends Section 56.10 of the Civil Code, (3) AB 1178 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 1687 in which case Sections 1, 1.5, and 1.9 of this bill shall not become operative.

(c) Section 1.9 of this bill incorporates amendments to Section 56.10 of the Civil Code proposed by this bill, AB 1178, and AB 1687. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 2008, (2) all three bills amend Section 56.10 of the Civil Code, and (3) this bill is enacted after AB 1178 and AB 1687, in which case Sections 1, 1.5, and 1.7 of this bill shall not become operative.

SEC. 31. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CHAPTER 554

An act to amend Sections 44392 and 44393 of the Education Code, relating to teacher credentialing.

[Approved by Governor October 12, 2007. Filed with Secretary of State October 12, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 44392 of the Education Code is amended to read:

44392. For the purposes of this article, unless the context clearly requires otherwise, the following terms shall have the following meanings:

(a) "Applicant" means a school district or county office of education applying for program funds under the California School Paraprofessional Teacher Training Program established pursuant to Section 44393.

(b) "Institutions of higher education" means the California Community Colleges, the California State University, the University of California, and private institutions of higher education that offer an accredited teacher training program.

(c) "Participant" means a school paraprofessional who elects to participate in the California School Paraprofessional Teacher Training Program.

(d) "Program" means the California School Paraprofessional Teacher Training Program established pursuant to Section 44393.

(e) "School paraprofessional" means the following job classifications: educational aide, instructional aide, special education aide, special education assistant, teacher associate, teacher assistant, teacher aide, pupil service aide, library aide, child development aide, child development assistant, and physical education aide.

(f) "Teacher training program" means an undergraduate or graduate program of instruction conducted by a campus of an institution of higher education that includes a developmentally sequenced career ladder to provide instruction, coursework, and clearly defined tasks for each level of the ladder, and that is designed to qualify students enrolled in the program for a teaching credential authorizing instruction in kindergarten and grades 1 to 12, inclusive.

SEC. 2. Section 44393 of the Education Code is amended to read:

44393. (a) The California School Paraprofessional Teacher Training Program is hereby established for the purpose of recruiting school paraprofessionals to participate in a program designed to encourage them to enroll in teacher training programs and to provide instructional service as teachers in the public schools.

(b) The commission, in consultation with the Chancellor of the California Community Colleges, the Chancellor of the California State University, the President of the University of California, the chancellors of private institutions of higher education that offer accredited teacher training programs, and representatives of certificated and classified employee organizations, shall select 24 or more school districts or county offices of education representing rural, urban, and suburban areas that apply to participate in the program. The commission shall ensure that, at a minimum, a total of 600 school paraprofessionals are recruited from among the 24 or more participating school districts or county offices of education. The criteria adopted by the commission for the selection of school districts or county offices of education to participate in the program shall include all of the following:

(1) The extent to which the applicant demonstrates the capacity and willingness to accommodate the participation of school paraprofessionals in teacher training programs conducted at institutions of higher education.

(2) The extent to which the applicant's plan for the implementation of its recruitment program involves the active participation of one or more local campuses of the participating institutions of higher education in the development of coursework and teaching programs for participating school paraprofessionals. Each selected applicant shall be required to enter into a written articulation agreement with the participating campuses of the institutions of higher education.

(3) The extent to which the applicant's plan for recruitment attempts to meet the demand for bilingual-crosscultural teachers.

(4) The extent to which the applicant's plan for recruitment attempts to meet the demand for multiple subject credentialed teachers interested in teaching kindergarten or any of grades 1 to 3, inclusive. For purposes of this paragraph, each paraprofessional selected to participate shall have completed at least two years of undergraduate college or university coursework and shall have demonstrated an interest in obtaining a multiple subject teaching credential for teaching kindergarten or any of grades 1 to 3, inclusive.

(5) The extent to which the applicant's plan for recruitment attempts to meet the demand for special education teachers.

(6) The extent to which a developmentally sequenced series of job descriptions leads from an entry-level school paraprofessional position to an entry-level teaching position in that school district or county office of education.

(7) The extent to which the applicant's plan for recruitment attempts to meet its own specific teacher needs.

(8) The extent to which the applicant's plan for implementation of its recruitment program involves participation in a district internship program pursuant to Article 7.5 (commencing with Section 44325) and Section 44830.3 or a university internship program pursuant to Article 3 (commencing with Section 44450) of Chapter 3.

(c) An applicant that is selected to participate pursuant to subdivision (b) shall provide information and assistance to each school paraprofessional it recruits under the program regarding admission to a teacher training program.

(d) (1) The applicant shall recruit and organize groups, or "cohorts," of participants, of no more than 30, and no less than 10, in each cohort. Cohorts shall be organized to consist of participants having approximately equal academic experience and qualifications, as determined by the school district or county office of education. To the extent possible, the members of each cohort shall proceed through the same subject matter

and credential programs. The members of each cohort shall enroll in the same college or university and shall be provided appropriate support and information throughout the course of their studies by the applicant.

(2) An applicant shall require participants to satisfy all of the following requirements prior to participating in the program:

(A) For the purpose of obtaining current criminal history information from the Department of Justice and the Federal Bureau of Investigation, obtain a certificate of clearance from the commission pursuant to Sections 44339 to 44341, inclusive, and related regulations adopted by the commission.

(B) Provide verification of one of the following:

(i) Has earned an associate or higher level degree.

(ii) Has completed at least two years of study at a postsecondary educational institution.

(iii) Has received a passing score on a formal academic assessment that demonstrates knowledge of, and the ability to assist in the instruction of, reading, writing, and mathematics. The formal academic assessment shall be based upon a job analysis for validity purposes and shall be made readily available to examinees.

(3) An applicant shall certify that it has received a commitment from each participant that he or she will accomplish all of the following:

(A) Graduate from an institution of higher education under the program with a bachelor's degree.

(B) Complete all of the requirements for and obtain a multiple subject, single subject, or education specialist teaching credential.

(C) Complete one school year of classroom instruction in the district or county office of education for each year that he or she receives assistance for books, fees, and tuition while attending an institution of higher education under the program.

(4) To the extent that a participant does not fulfill his or her obligations, as set forth in paragraph (3), the participant shall be required to repay the assistance. If a participant is laid off, the participant may not be required to repay the assistance until the participant is offered reemployment and has an opportunity to fulfill his or her obligations under this section.

(5) Except as otherwise provided in paragraph (4), if a participant is unable to fulfill his or her obligations pursuant to paragraph (3) due to a serious illness, a pregnancy, or another natural cause, the time period for repayment of the assistance shall be extended by a maximum period of one year.

(6) Except as otherwise provided in paragraph (4), if an interruption in employment caused by a natural disaster prevents a participant from completing one of the required years of service, the time period for

repayment of the assistance shall be extended by a period equal to the period between the date the interruption of employment begins and the date employment resumes.

(e) The commission shall contract with an independent evaluator with a proven record of experience in assessing career-advancement programs or teacher training programs to conduct an evaluation to determine the success of the recruitment programs established pursuant to subdivision (b). The evaluation shall be conducted once every five years and shall incorporate data annually collected by the commission and reported to the Legislature. The commission shall complete the evaluation with existing resources. By January 1 of each year in which an evaluation is conducted pursuant to this subdivision, commencing with January 1, 2009, the commission shall submit the completed evaluation to the Governor and the education policy and fiscal committees of the Assembly and Senate. The evaluation shall include, but is not limited to, all of the following:

(1) The total cost per person participating in the program who successfully obtains a teaching credential, based upon all state, local, federal, and other sources of funding.

(2) The economic status of persons participating in the program.

(3) A description of financial and other resources made available to each recruitment program by participating school districts or county offices of education, institutions of higher education, and other participating organizations.

(4) The extent to which pupil performance on standardized achievement tests has improved in classes taught by teachers who have successfully completed the program, in comparison to classes taught by other teachers who have equivalent teaching experience.

(5) The extent to which pupil dropout rates and other measures of delinquency have improved in classes taught by teachers who have successfully completed the program.

(6) The extent to which teachers who have successfully completed the program remain in the communities in which they reside and in which they teach.

(7) The attrition rate of teachers who have successfully completed the program.

(f) Each selected school district or county office of education shall report to the commission regarding the progress of each cohort of school paraprofessionals, and other information regarding its recruitment program as the commission may direct.

(g) No later than January 1 of each year, the commission shall report to the Legislature regarding the status of the program, including, but not limited to, the number of school paraprofessionals recruited, the academic

progress of the school paraprofessionals recruited, the number of school paraprofessionals recruited who are subsequently employed as teachers in the public schools, the degree to which the program meets the demand for bilingual and special education teachers as well as meeting teacher needs in shortage areas as determined by the school district or county office of education, the degree to which the program or similar programs can meet that demand if properly funded and executed, and other effects upon the operation of the public schools.

(h) (1) It is the intent of the Legislature that each fiscal year, funding for the California School Paraprofessional Teacher Training Program be allocated to the Commission on Teacher Credentialing for grants to applicants pursuant to this section. A grant to an applicant shall not exceed three thousand five hundred dollars ($3,500) per participant per year. Funding for grants to applicants pursuant to this subdivision shall be contingent upon an appropriation in the annual Budget Act.

(2) The commission shall report to the Department of Finance by March 31 of each year the amount of funds collected by school districts and county offices of education as repayment of assistance pursuant to paragraph (4) of subdivision (d) and the amount of funds that remain unspent from the funds appropriated to the commission in the annual Budget Act for purposes of the program.

CHAPTER 555

An act to amend Section 62 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor October 12, 2007. Filed with Secretary of State October 12, 2007.]

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) It is the intent of the Legislature in enacting this act to guarantee equality for all Californians, regardless of gender or sexual orientation, and to further the state's interests in protecting Californians from the potentially severe economic consequences of abandonment, separation, the death of a partner, and other life crises.

(b) To this end, the Legislature has enacted various statutes in an attempt to move California closer to fulfilling the promises of inalienable rights, liberty, and equality contained in Sections 1 and 7 of Article I of the California Constitution.

(c) For example, in 1999, the Legislature enacted Chapter 588 of the Statutes of 1999, effective January 1, 2000, which established a state registry of domestic partnerships. In 2002, the Legislature enacted Chapter 447 of the Statutes of 2002, effective July 1, 2003, which granted registered domestic partners the same intestate succession rights with respect to separate property as spouses. In 2003, the Legislature enacted Chapter 421 of the Statutes of 2003, effective January 1, 2005, which extended to registered domestic partners nearly all of the rights and responsibilities of spouses under state law that had not been provided by prior domestic partner legislation. And, in 2005, the Legislature enacted Chapter 416 of the Statutes of 2005, which amended Section 62 of the Revenue and Taxation Code concerning valuation and taxation of real property, to exclude property transfers between registered domestic partners from the definition of "change in ownership" for purposes of property tax reassessment. The Legislature has intended a liberal reading of these laws and this act builds upon this existing framework.

(d) Although it intended to protect family members during life crises and to reduce discrimination on the bases of sex and sexual orientation in a manner consistent with the California Constitution, Chapter 417 of the Statutes of 2005 did not expressly exempt transfers from one registered domestic partner to the other registered domestic partner that resulted from the death of a partner prior to January 1, 2006.

(e) Protection against reassessment of family owned real property and resulting increases in property taxes can be a critical bulwark against financial hardship and the loss of the family home or business when a family member dies or a family relationship ends in divorce or dissolution of a domestic partnership. The same is true for domestic partners whose relationships predated California's protective legislation. Many domestic partners whose property was reassessed due to the death of one partner or the dissolution of the domestic partnership have been forced by the resulting increase in property taxes to sell the family home. Those domestic partners who have retained ownership and have been paying increased property taxes are being treated unequally in a manner inconsistent with the goal of the domestic partnership laws.

(f) Many lesbian, gay, and bisexual Californians continue to face economic discrimination, despite forming lasting, committed, and caring relationships with persons of the same sex according to the laws of this state. These couples build lives together, as do spouses, by purchasing property and creating and operating family businesses. Expanding the rights of domestic partners with respect to property ownership would further California's compelling interests in promoting family relationships and protecting family members during life crises, and would reduce

discrimination on the bases of sex and sexual orientation in a manner warranted by the California Constitution.

(g) Therefore, the Legislature finds and declares that this act serves a public purpose of the state.

SEC. 2. Section 62 of the Revenue and Taxation Code is amended to read:

62. Change in ownership shall not include:

(a) (1) Any transfer between coowners that results in a change in the method of holding title to the real property transferred without changing the proportional interests of the coowners in that real property, such as a partition of a tenancy in common.

(2) Any transfer between an individual or individuals and a legal entity or between legal entities, such as a cotenancy to a partnership, a partnership to a corporation, or a trust to a cotenancy, that results solely in a change in the method of holding title to the real property and in which proportional ownership interests of the transferors and transferees, whether represented by stock, partnership interest, or otherwise, in each and every piece of real property transferred, remain the same after the transfer. The provisions of this paragraph shall not apply to transfers also excluded from change in ownership under the provisions of subdivision (b) of Section 64.

(b) Any transfer for the purpose of perfecting title to the property.

(c) (1) The creation, assignment, termination, or reconveyance of a security interest; or (2) the substitution of a trustee under a security instrument.

(d) Any transfer by the trustor, or by the trustor's spouse or registered domestic partner, or by both, into a trust for so long as (1) the transferor is the present beneficiary of the trust, or (2) the trust is revocable; or any transfer by a trustee of such a trust described in either clause (1) or (2) back to the trustor; or, any creation or termination of a trust in which the trustor retains the reversion and in which the interest of others does not exceed 12 years duration.

(e) Any transfer by an instrument whose terms reserve to the transferor an estate for years or an estate for life. However, the termination of such an estate for years or estate for life shall constitute a change in ownership, except as provided in subdivision (d) and in Section 63.

(f) The creation or transfer of a joint tenancy interest if the transferor, after the creation or transfer, is one of the joint tenants as provided in subdivision (b) of Section 65.

(g) Any transfer of a lessor's interest in taxable real property subject to a lease with a remaining term (including renewal options) of 35 years or more. For the purpose of this subdivision, for 1979–80 and each year thereafter, it shall be conclusively presumed that all homes eligible for

the homeowners' exemption, other than manufactured homes located on rented or leased land and subject to taxation pursuant to Part 13 (commencing with Section 5800) and floating homes subject to taxation pursuant to Section 229, that are on leased land have a renewal option of at least 35 years on the lease of that land, whether or not in fact that renewal option exists in any contract or agreement.

(h) Any purchase, redemption, or other transfer of the shares or units of participation of a group trust, pooled fund, common trust fund, or other collective investment fund established by a financial institution.

(i) Any transfer of stock or membership certificate in a housing cooperative that was financed under one mortgage, provided that mortgage was insured under Section 213, 221(d)(3), 221(d)(4), or 236 of the National Housing Act, as amended, or that housing cooperative was financed or assisted pursuant to Section 514, 515, or 516 of the Housing Act of 1949 or Section 202 of the Housing Act of 1959, or the housing cooperative was financed by a direct loan from the California Housing Finance Agency, and provided that the regulatory and occupancy agreements were approved by the governmental lender or insurer, and provided that the transfer is to the housing cooperative or to a person or family qualifying for purchase by reason of limited income. Any subsequent transfer from the housing cooperative to a person or family not eligible for state or federal assistance in reduction of monthly carrying charges or interest reduction assistance by reason of the income level of that person or family shall constitute a change of ownership.

(j) Any transfer during the period March 1, 1975, to March 1, 1981, between coowners in any property that was held by them as coowners for all or part of that period, and which was eligible for a homeowner's exemption during the period of the coownership, notwithstanding any other provision of this chapter. Any transferee whose interest was revalued in contravention of the provisions of this subdivision shall obtain a reversal of that revaluation with respect to the 1980–81 assessment year and thereafter, upon application to the county assessor of the county in which the property is located filed on or before March 26, 1982. No refunds shall be made under this subdivision for any assessment year prior to the 1980-81 fiscal year.

(k) Any transfer of property or an interest therein between a corporation sole, a religious corporation, a public benefit corporation, and a holding corporation as defined in Section 23701h holding title for the benefit of any of these corporations, or any combination thereof (including any transfer from one entity to the same type of entity), provided that both the transferee and transferor are regulated by laws, rules, regulations, or canons of the same religious denomination.

(*l*) Any transfer, that would otherwise be a transfer subject to reappraisal under this chapter, between or among the same parties for the purpose of correcting or reforming a deed to express the true intentions of the parties, provided that the original relationship between the grantor and grantee is not changed.

(m) Any intrafamily transfer of an eligible dwelling unit from a parent or parents or legal guardian or guardians to a minor child or children or between or among minor siblings as a result of a court order or judicial decree due to the death of the parent or parents. As used in this subdivision, "eligible dwelling unit" means the dwelling unit that was the principal place of residence of the minor child or children prior to the transfer and remains the principal place of residence of the minor child or children after the transfer.

(n) Any transfer of an eligible dwelling unit, whether by will, devise, or inheritance, from a parent or parents to a child or children, or from a guardian or guardians to a ward or wards, if the child, children, ward, or wards have been disabled, as provided in subdivision (e) of Section 12304 of the Welfare and Institutions Code, for at least five years preceding the transfer and if the child, children, ward, or wards have adjusted gross income that, when combined with the adjusted gross income of a spouse or spouses, parent or parents, and child or children, does not exceed twenty thousand dollars ($20,000) in the year in which the transfer occurs. As used in this subdivision, "child" or "ward" includes a minor or an adult. As used in this subdivision, "eligible dwelling unit" means the dwelling unit that was the principal place of residence of the child or children, or ward or wards for at least five years preceding the transfer and remains the principal place of residence of the child or children, or ward or wards after the transfer. Any transferee whose property was reassessed in contravention of the provisions of this subdivision for the 1984–85 assessment year shall obtain a reversal of that reassessment upon application to the county assessor of the county in which the property is located. Application by the transferee shall be made to the assessor no later than 30 days after the later of either the transferee's receipt of notice of reassessment pursuant to Section 75.31 or the end of the 1984–85 fiscal year.

(o) Any transfer of a possessory interest in tax-exempt real property subject to a sublease with a remaining term, including renewal options, that exceeds half the length of the remaining term of the leasehold, including renewal options.

(p) (1) Commencing on January 1, 2000, any transfer between registered domestic partners, as defined in Section 297 of the Family Code, including, but not limited to:

(A) Transfers to a trustee for the beneficial use of a registered domestic partner, or the surviving registered domestic partner of a deceased transferor, or by a trustee of such a trust to the registered domestic partner of the trustor.

(B) Transfers that take effect upon the death of a registered domestic partner.

(C) Transfers to a registered domestic partner or former registered domestic partner in connection with a property settlement agreement or decree of dissolution of a registered domestic partnership or legal separation.

(D) The creation, transfer, or termination, solely between registered domestic partners, of any coowner's interest.

(E) The distribution of a legal entity's property to a registered domestic partner or former registered domestic partner in exchange for the interest of the registered domestic partner in the legal entity in connection with a property settlement agreement or a decree of dissolution of a registered domestic partnership or legal separation.

(2) Any transferee whose property was reassessed in contravention of the provisions of this subdivision for a transfer occurring between January 1, 2000, and January 1, 2006, shall obtain a reversal of that reassessment upon application to the county assessor of the county in which the property is located. Application by the transferee shall be made to the assessor no later than June 30, 2009. A county may charge a fee for its costs related to the application and reassessment reversal in an amount that does not exceed the actual costs incurred. This paragraph shall be liberally construed to provide the benefits of this subdivision and Article XIII A of the California Constitution to registered domestic partners.

(A) After consultation with the California Assessors' Association, the State Board of Equalization shall prescribe the form for claiming the reassessment reversal described in paragraph (2). The claim form shall be entitled "Claim for Reassessment Reversal for Registered Domestic Partners." The claim shall state on its face that a "certificate of registered domestic partnership" is available upon request from the California Secretary of State.

(B) The information on the claim shall include a description of the property, the parties to the transfer of interest in the property, the date of the transfer of interest in the property, and a statement that the transferee registered domestic partner and the transferor registered domestic partner were, on the date of transfer, in a registered domestic partnership as defined in Section 297 of the Family Code.

(C) The claimant shall declare that the information provided on the form is true, correct, and complete to the best of his or her knowledge and belief.

(D) The claimant shall provide with the completed claim the "Certificate of Registered Domestic Partnership," or photocopy thereof, naming the transferee and transferor as registered domestic partners and reflecting the creation of the registered domestic partnership on a date prior to, or concurrent with, the date of the transfer for which a reassessment reversal is requested.

(E) Any reassessment reversal granted pursuant to a claim shall apply commencing with the lien date of the assessment year, as defined in Section 118, in which the claim is filed. No refunds shall be made under this paragraph for any prior assessment year.

(F) Under any reassessment reversal granted pursuant to that claim, the adjusted full cash value of the subject real property in the assessment year described in subparagraph (E) shall be the adjusted base year value of the subject real property in the assessment year in which the excluded purchase or transfer took place, factored to the assessment year described in subparagraph (E) for both of the following:

(i) Inflation as annually determined in accordance with paragraph (1) of subdivision (a) of Section 51.

(ii) Any subsequent new construction occurring with respect to the subject real property.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

SEC. 4. Notwithstanding Section 2229 of the Revenue and Taxation Code, no appropriation is made by this act and the state shall not reimburse any local agency for any property tax revenues lost by it pursuant to this act.

SEC. 5. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

CHAPTER 556

An act to amend Section 1369 of, and to add and repeal Section 1369.1 of, the Penal Code, relating to criminal procedure.

[Approved by Governor October 12, 2007. Filed with
Secretary of State October 12, 2007.]

The people of the State of California do enact as follows:

SECTION 1. It is the intent of the Legislature to assure timely and humane access to court-approved psychiatric medications while individuals are in jail and awaiting transfer to a state psychiatric hospital for restoration of competency.

SEC. 2. Section 1369 of the Penal Code is amended to read:

1369. A trial by court or jury of the question of mental competence shall proceed in the following order:

(a) The court shall appoint a psychiatrist or licensed psychologist, and any other expert the court may deem appropriate, to examine the defendant. In any case where the defendant or the defendant's counsel informs the court that the defendant is not seeking a finding of mental incompetence, the court shall appoint two psychiatrists, licensed psychologists, or a combination thereof. One of the psychiatrists or licensed psychologists may be named by the defense and one may be named by the prosecution. The examining psychiatrists or licensed psychologists shall evaluate the nature of the defendant's mental disorder, if any, the defendant's ability or inability to understand the nature of the criminal proceedings or assist counsel in the conduct of a defense in a rational manner as a result of a mental disorder and, if within the scope of their licenses and appropriate to their opinions, whether or not treatment with antipsychotic medication is medically appropriate for the defendant and whether antipsychotic medication is likely to restore the defendant to mental competence. If an examining psychologist is of the opinion that antipsychotic medication may be medically appropriate for the defendant and that the defendant should be evaluated by a psychiatrist to determine if antipsychotic medication is medically appropriate, the psychologist shall inform the court of this opinion and his or her recommendation as to whether a psychiatrist should examine the defendant. The examining psychiatrists or licensed psychologists shall also address the issues of whether the defendant has capacity to make decisions regarding antipsychotic medication and whether the defendant is a danger to self or others. If the defendant is examined by a psychiatrist and the psychiatrist forms an opinion as to whether or not treatment with antipsychotic medication is medically appropriate, the psychiatrist shall inform the court of his or her opinions as to the likely or potential side effects of the medication, the expected efficacy of the medication, possible alternative treatments, and whether it is medically appropriate to administer antipsychotic medication in the county jail. If it is suspected

the defendant is developmentally disabled, the court shall appoint the director of the regional center for the developmentally disabled established under Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code, or the designee of the director, to examine the defendant. The court may order the developmentally disabled defendant to be confined for examination in a residential facility or state hospital.

The regional center director shall recommend to the court a suitable residential facility or state hospital. Prior to issuing an order pursuant to this section, the court shall consider the recommendation of the regional center director. While the person is confined pursuant to order of the court under this section, he or she shall be provided with necessary care and treatment.

(b) (1) The counsel for the defendant shall offer evidence in support of the allegation of mental incompetence.

(2) If the defense declines to offer any evidence in support of the allegation of mental incompetence, the prosecution may do so.

(c) The prosecution shall present its case regarding the issue of the defendant's present mental competence.

(d) Each party may offer rebutting testimony, unless the court, for good reason in furtherance of justice, also permits other evidence in support of the original contention.

(e) When the evidence is concluded, unless the case is submitted without final argument, the prosecution shall make its final argument and the defense shall conclude with its final argument to the court or jury.

(f) In a jury trial, the court shall charge the jury, instructing them on all matters of law necessary for the rendering of a verdict. It shall be presumed that the defendant is mentally competent unless it is proved by a preponderance of the evidence that the defendant is mentally incompetent. The verdict of the jury shall be unanimous.

SEC. 3. Section 1369.1 is added to the Penal Code, to read:

1369.1. (a) As used in this chapter, for the sole purpose of administering antipsychotic medication pursuant to a court order, "treatment facility" includes a county jail. Upon the concurrence of the county board of supervisors, the county mental health director, and the county sheriff, the jail may be designated to provide medically approved medication to defendants found to be mentally incompetent and unable to provide informed consent due to a mental disorder, pursuant to this chapter. In the case of Madera, Napa, and Santa Clara Counties, the concurrence shall be with the board of supervisors, the county mental health director, and the county sheriff or the chief of corrections. The provisions of Section 1370 and 1370.01 shall apply to antipsychotic

medications provided in a county jail, provided however, that the maximum period of time a defendant may be treated in a treatment facility pursuant to this section shall not exceed six months.

(b) The State Department of Mental Health shall report to the Legislature on or before January 1, 2009, on all of the following:

(1) The number of defendants in the state who are incompetent to stand trial.

(2) The resources available at state hospitals and local mental health facilities, other than jails, for returning these defendants to competence.

(3) Additional resources that are necessary to reasonably treat, in a reasonable period of time, at the state and local levels, excluding jails, defendants who are incompetent to stand trial.

(4) What, if any, statewide standards and organizations exist concerning local treatment facilities that could treat defendants who are incompetent to stand trial.

(5) Address the concerns regarding defendants who are incompetent to stand trial who are currently being held in jail awaiting treatment.

(c) Nothing in this section shall be construed to abrogate or in any way limit any provision of law enacted to ensure the due process rights set forth in Sell v. United States (2003) 539 U.S. 166.

(d) This section shall remain in effect only until January 1, 2010, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2010, deletes or extends that date.

CHAPTER 557

An act to amend Section 18554 of, and to repeal and add Section 18871.4 of, the Health and Safety Code, relating to mobilehome and special occupancy parks.

[Approved by Governor October 12, 2007. Filed with Secretary of State October 12, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 18554 of the Health and Safety Code is amended to read:

18554. (a) It is unlawful to permit any wastewater, sewage, or waste material from any plumbing fixtures in a park, any park sewage or waste disposal system, or any plumbing fixtures in a manufactured home, mobilehome, recreational vehicle, accessory structure, or permanent

building in the park, to be discharged onto or deposited upon the surface of the ground.

(b) The enforcement agency may order the removal, sanitation, or both, of any wastewater, sewage, or waste material discharged onto or deposited upon the surface of the ground, or may require the removal, sanitation, or both, of the wastewater, sewage, or waste material, in a manner consistent with the requirements of, and in consultation with, the local health department or agency.

(c) Pursuant to this section, the registered owner of a mobilehome, manufactured home, or recreational vehicle shall be responsible for complying with an order, or the correction of a citation, issued by the enforcement agency, and the costs of that order, whenever wastewater, sewage, or waste material is discharged onto or deposited upon the surface of the ground as a result of leaks from plumbing fixtures in a manufactured home, mobilehome, or recreational vehicle, or accessory structure, or whenever those leaks come from plumbing on the space or lot that connects the home or recreational vehicle or accessory structure to the park's sewer, septic, or drain system on the home or vehicle registered owner's side of the connection, if the discharge or deposit is determined by the enforcement agency to be the fault of the registered owner of the home or recreational vehicle.

(d) Except as provided in Section 18930, the department may adopt any rules and regulations that it determines are reasonably necessary for the protection of life and property and to carry out the purposes of this section.

SEC. 2. Section 18871.4 of the Health and Safety Code is repealed.

SEC. 3. Section 18871.4 is added to the Health and Safety Code, to read:

18871.4. (a) It is unlawful to permit any wastewater, sewage, or waste material from any plumbing fixtures in a park, any park sewage or waste disposal system, or any plumbing fixtures in a manufactured home, mobilehome, recreational vehicle, accessory structure, or permanent building in the park, to be discharged onto or deposited upon the ground.

(b) The enforcement agency may order the removal, sanitation, or both, of any wastewater, sewage, or waste material discharged onto or deposited upon the surface of the ground, or may require the removal, sanitation, or both, of the wastewater, sewage, or waste material, in a manner consistent with the requirements of, and in consultation with, the local health department or agency.

(c) Pursuant to this section, the registered owner of a mobilehome, manufactured home, or recreational vehicle shall be responsible for complying with an order, or the correction of a citation, issued by the

enforcement agency, and the costs of that order, whenever wastewater, sewage, or waste material is discharged onto or deposited upon the surface of the ground as a result of leaks from plumbing fixtures in a manufactured home, mobilehome, or recreational vehicle, or accessory structure, or whenever those leaks come from plumbing on the space or lot that connects the home or recreational vehicle or accessory structure to the park's sewer, septic, or drain system on the home or vehicle registered owner's side of the connection, if the discharge or deposit is determined by the enforcement agency to be the fault of the registered owner of the home or recreational vehicle.

(d) Except as provided in Section 18930, the department may adopt any rules and regulations that it determines are reasonably necessary for the protection of life and property and to carry out the purposes of this section.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CHAPTER 558

An act to amend Sections 1330, 1331, 1332, 1333, 1334, 1335, 1338, and 1340 of, and to add Section 1341 to, the Military and Veterans Code, and to repeal Article 11 (commencing with Section 18821) of Chapter 3 of Part 10.2 of Division 2 of the Revenue and Taxation Code, relating to veterans memorials.

[Approved by Governor October 12, 2007. Filed with Secretary of State October 12, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 1330 of the Military and Veterans Code is amended to read:

1330. (a) The Secretary of Veterans Affairs shall establish a California Mexican American Veterans' Memorial Beautification and Enhancement Committee composed of seven members as follows:

(1) Five members appointed by the Governor.

(2) One member appointed by the President pro Tempore of the Senate.

(3) One member appointed by the Speaker of the Assembly.

(b) The secretary shall appoint one member from the committee to serve as chairperson.

SEC. 2. Section 1331 of the Military and Veterans Code is amended to read:

1331. Members of the committee shall not receive any compensation.

SEC. 3. Section 1332 of the Military and Veterans Code is amended to read:

1332. The committee may request staff support and facilities for its activities from the Department of Veterans Affairs, and the department may provide that support and be reimbursed for the cost of this support.

SEC. 4. Section 1333 of the Military and Veterans Code is amended to read:

1333. The committee shall be responsible for carrying out the purposes of this chapter.

SEC. 5. Section 1334 of the Military and Veterans Code is amended to read:

1334. (a) The beautification and enhancement of an existing memorial on state grounds is hereby authorized. For the purposes of this act, "state grounds" means that property in the City of Sacramento bounded by "Ninth," "Tenth," "L," and "N" Streets. The actual site for the beautification and enhancement of the memorial shall be the site of the existing memorial and surrounding ground.

(b) Funds for the beautification and enhancement of the memorial shall be provided through private contributions and through existing funds collected under the auspices of the California Mexican American Veterans' Memorial Beautification and Enhancement Commission. The Department of Veterans Affairs may receive contributions for this purpose.

SEC. 6. Section 1335 of the Military and Veterans Code is amended to read:

1335. With respect to the design and construction of an enhanced memorial, the committee may do all of the following:

(a) Establish a schedule for the design, construction, and dedication of the enhanced memorial.

(b) Implement procedures to solicit designs for beautifying and enhancing the memorial and devise a selection process for the choice of the design.

(c) Select individuals or organizations to provide fundraising services and to construct the enhanced memorial.

(d) Review and monitor the design and construction of the memorial and establish a program for the rededication of the memorial.

(e) Consult with the Department of General Services to determine parameters for the final size of the memorial.

(f) Consult with and obtain final design and site orientation approval from the Department of General Services and the Secretary of Veterans Affairs.

SEC. 7. Section 1338 of the Military and Veterans Code is amended to read:

1338. The committee shall notify the Governor and the Secretary of Veterans Affairs when beautification and enhancement of the memorial pursuant to this chapter is complete. This chapter shall remain in effect only until, and shall be repealed on, January 1 of the year following that notification, unless a later enacted statute, which is enacted before that date, deletes or extends that date.

SEC. 8. Section 1340 of the Military and Veterans Code is amended to read:

1340. The California Mexican American Veterans' Memorial Beautification and Enhancement Account is hereby created in the General Fund. All funds received by the Department of Veterans Affairs under Chapter 7 (commencing with Section 1330) shall be deposited in the account for the design and construction of the California Mexican American Veterans' Memorial as specified in Section 1341.

SEC. 9. Section 1341 is added to the Military and Veterans Code, to read:

1341. (a) Notwithstanding Section 13340 of the Government Code, all funds deposited in the California Mexican American Veterans' Memorial Beautification and Enhancement Account established pursuant to Section 1340 are hereby continuously appropriated, without regard to fiscal year, to the Department of Veterans Affairs for the beautification and enhancement of an existing memorial and surrounding grounds at the State Capitol pursuant to Chapter 7 (commencing with Section 1330).

(b) On July 1, 2014, any moneys remaining in the California Mexican American Veterans' Memorial Beautification and Enhancement Account shall revert to the General Fund.

SEC. 10. Article 11 (commencing with Section 18821) of Chapter 3 of Part 10.2 of Division 2 of the Revenue and Taxation Code is repealed.

CHAPTER 559

An act relating to schools, and making an appropriation therefor.

[Approved by Governor October 12, 2007. Filed with
Secretary of State October 12, 2007.]

The people of the State of California do enact as follows:

SECTION 1. The sum of fifty-five thousand dollars ($55,000) is hereby appropriated from the General Fund to the Valley Center-Pauma Unified School District for purposes of allowing the school district to continue to operate the Palomar Mountain Elementary School, which through the 1999–2000 school year was part of the Pauma Elementary School District and qualified that district to receive necessary small school funding for the school.

SEC. 2. Due to the unique circumstances of the Valley Center-Pauma Unified School District, the Legislature finds and declares that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution.

CHAPTER 560

An act to amend Section 13300 of the Penal Code, relating to crime.

[Approved by Governor October 12, 2007. Filed with
Secretary of State October 12, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 13300 of the Penal Code is amended to read:

13300. (a) As used in this section:

(1) "Local summary criminal history information" means the master record of information compiled by any local criminal justice agency pursuant to Chapter 2 (commencing with Section 13100) of Title 3 of Part 4 pertaining to the identification and criminal history of any person, such as name, date of birth, physical description, dates of arrests, arresting agencies and booking numbers, charges, dispositions, and similar data about the person.

(2) "Local summary criminal history information" does not refer to records and data compiled by criminal justice agencies other than that local agency, nor does it refer to records of complaints to or investigations conducted by, or records of intelligence information or security procedures of, the local agency.

(3) "Local agency" means a local criminal justice agency.

(b) A local agency shall furnish local summary criminal history information to any of the following, when needed in the course of their duties, provided that when information is furnished to assist an agency, officer, or official of state or local government, a public utility, or any entity, in fulfilling employment, certification, or licensing duties, Chapter 1321 of the Statutes of 1974 and Section 432.7 of the Labor Code shall apply:

(1) The courts of the state.

(2) Peace officers of the state, as defined in Section 830.1, subdivisions (a) and (d) of Section 830.2, subdivisions (a), (b), and (j) of Section 830.3, and subdivisions (a), (b), and (c) of Section 830.5.

(3) District attorneys of the state.

(4) Prosecuting city attorneys of any city within the state.

(5) City attorneys pursuing civil gang injunctions pursuant to Section 186.22a, or drug abatement actions pursuant to Section 3479 or 3480 of the Civil Code, or Section 11571 of the Health and Safety Code.

(6) Probation officers of the state.

(7) Parole officers of the state.

(8) A public defender or attorney of record when representing a person in proceedings upon a petition for a certificate of rehabilitation and pardon pursuant to Section 4852.08.

(9) A public defender or attorney of record when representing a person in a criminal case and when authorized access by statutory or decisional law.

(10) Any agency, officer, or official of the state when the local summary criminal history information is required to implement a statute, regulation, or ordinance that expressly refers to specific criminal conduct applicable to the subject person of the local summary criminal history information, and contains requirements or exclusions, or both, expressly based upon the specified criminal conduct.

(11) Any city, county, city and county, or district, or any officer or official thereof, when access is needed in order to assist the agency, officer, or official in fulfilling employment, certification, or licensing duties, and when the access is specifically authorized by the city council, board of supervisors, or governing board of the city, county, or district when the local summary criminal history information is required to implement a statute, regulation, or ordinance that expressly refers to specific criminal conduct applicable to the subject person of the local summary criminal history information, and contains requirements or exclusions, or both, expressly based upon the specified criminal conduct.

(12) The subject of the local summary criminal history information.

(13) Any person or entity when access is expressly authorized by statute when the local summary criminal history information is required

to implement a statute, regulation, or ordinance that expressly refers to specific criminal conduct applicable to the subject person of the local summary criminal history information, and contains requirements or exclusions, or both, expressly based upon the specified criminal conduct.

(14) Any managing or supervising correctional officer of a county jail or other county correctional facility.

(15) Local child support agencies established by Section 17304 of the Family Code. When a local child support agency closes a support enforcement case containing summary criminal history information, the agency shall delete or purge from the file and destroy any documents or information concerning or arising from offenses for or of which the parent has been arrested, charged, or convicted, other than for offenses related to the parents having failed to provide support for the minor children, consistent with Section 17531 of the Family Code.

(16) County child welfare agency personnel who have been delegated the authority of county probation officers to access state summary criminal information pursuant to Section 272 of the Welfare and Institutions Code for the purposes specified in Section 16504.5 of the Welfare and Institutions Code.

(c) The local agency may furnish local summary criminal history information, upon a showing of a compelling need, to any of the following, provided that when information is furnished to assist an agency, officer, or official of state or local government, a public utility, or any entity, in fulfilling employment, certification, or licensing duties, Chapter 1321 of the Statutes of 1974 and Section 432.7 of the Labor Code shall apply:

(1) Any public utility, as defined in Section 216 of the Public Utilities Code, which operates a nuclear energy facility when access is needed to assist in employing persons to work at the facility, provided that, if the local agency supplies the information, it shall furnish a copy of this information to the person to whom the information relates.

(2) To a peace officer of the state other than those included in subdivision (b).

(3) To a peace officer of another country.

(4) To public officers, other than peace officers, of the United States, other states, or possessions or territories of the United States, provided that access to records similar to local summary criminal history information is expressly authorized by a statute of the United States, other states, or possessions or territories of the United States when this information is needed for the performance of their official duties.

(5) To any person when disclosure is requested by a probation, parole, or peace officer with the consent of the subject of the local summary

criminal history information and for purposes of furthering the rehabilitation of the subject.

(6) The courts of the United States, other states, or territories or possessions of the United States.

(7) Peace officers of the United States, other states, or territories or possessions of the United States.

(8) To any individual who is the subject of the record requested when needed in conjunction with an application to enter the United States or any foreign nation.

(9) Any public utility, as defined in Section 216 of the Public Utilities Code, when access is needed to assist in employing persons who will be seeking entrance to private residences in the course of their employment. The information provided shall be limited to the record of convictions and any arrest for which the person is released on bail or on his or her own recognizance pending trial.

If the local agency supplies the information pursuant to this paragraph, it shall furnish a copy of the information to the person to whom the information relates.

Any information obtained from the local summary criminal history is confidential and the receiving public utility shall not disclose its contents, other than for the purpose for which it was acquired. The local summary criminal history information in the possession of the public utility and all copies made from it shall be destroyed 30 days after employment is denied or granted, including any appeal periods, except for those cases where an employee or applicant is out on bail or on his or her own recognizance pending trial, in which case the state summary criminal history information and all copies shall be destroyed 30 days after the case is resolved, including any appeal periods.

A violation of any of the provisions of this paragraph is a misdemeanor, and shall give the employee or applicant who is injured by the violation a cause of action against the public utility to recover damages proximately caused by the violation.

Nothing in this section shall be construed as imposing any duty upon public utilities to request local summary criminal history information on any current or prospective employee.

Seeking entrance to private residences in the course of employment shall be deemed a "compelling need" as required to be shown in this subdivision.

(10) Any city, county, city and county, or district, or any officer or official thereof, if a written request is made to a local law enforcement agency and the information is needed to assist in the screening of a prospective concessionaire, and any affiliate or associate thereof, as these terms are defined in subdivision (k) of Section 432.7 of the Labor

Code, for the purposes of consenting to, or approving of, the prospective concessionaire's application for, or acquisition of, any beneficial interest in a concession, lease, or other property interest.

Any local government's request for local summary criminal history information for purposes of screening a prospective concessionaire and their affiliates or associates before approving or denying an application for, or acquisition of, any beneficial interest in a concession, lease, or other property interest is deemed a "compelling need" as required by this subdivision. However, only local summary criminal history information pertaining to criminal convictions may be obtained pursuant to this paragraph.

Any information obtained from the local summary criminal history is confidential and the receiving local government shall not disclose its contents, other than for the purpose for which it was acquired. The local summary criminal history information in the possession of the local government and all copies made from it shall be destroyed not more than 30 days after the local government's final decision to grant or deny consent to, or approval of, the prospective concessionaire's application for, or acquisition of, a beneficial interest in a concession, lease, or other property interest. Nothing in this section shall be construed as imposing any duty upon a local government, or any officer or official thereof, to request local summary criminal history information on any current or prospective concessionaire or their affiliates or associates.

(d) Whenever an authorized request for local summary criminal history information pertains to a person whose fingerprints are on file with the local agency and the local agency has no criminal history of that person, and the information is to be used for employment, licensing, or certification purposes, the fingerprint card accompanying the request for information, if any, may be stamped "no criminal record" and returned to the person or entity making the request.

(e) A local agency taking fingerprints of a person who is an applicant for licensing, employment, or certification may charge a fee not to exceed ten dollars ($10) to cover the cost of taking the fingerprints and processing the required documents.

(f) Whenever local summary criminal history information furnished pursuant to this section is to be used for employment, licensing, or certification purposes, the local agency shall charge the person or entity making the request a fee which it determines to be sufficient to reimburse the local agency for the cost of furnishing the information, provided that no fee shall be charged to any public law enforcement agency for local summary criminal history information furnished to assist it in employing, licensing, or certifying a person who is applying for employment with the agency as a peace officer or criminal investigator. Any state agency

required to pay a fee to the local agency for information received under this section may charge the applicant a fee sufficient to reimburse the agency for the expense.

(g) Whenever there is a conflict, the processing of criminal fingerprints shall take priority over the processing of applicant fingerprints.

(h) It is not a violation of this article to disseminate statistical or research information obtained from a record, provided that the identity of the subject of the record is not disclosed.

(i) It is not a violation of this article to include information obtained from a record in (1) a transcript or record of a judicial or administrative proceeding or (2) any other public record when the inclusion of the information in the public record is authorized by a court, statute, or decisional law.

(j) Notwithstanding any other law, a public prosecutor may, in response to a written request made pursuant to Section 6253 of the Government Code, provide information from a local summary criminal history, if release of the information would enhance public safety, the interest of justice, or the public's understanding of the justice system and the person making the request declares that the request is made for a scholarly or journalistic purpose. If a person in a declaration required by this subdivision willfully states as true any material fact that he or she knows to be false, he or she shall be subject to a civil penalty not exceeding ten thousand dollars ($10,000). The requestor shall be informed in writing of this penalty. An action to impose a civil penalty under this subdivision may be brought by any public prosecutor and shall be enforced as a civil judgment.

(k) Notwithstanding any other law, the Department of Justice or any state or local law enforcement agency may require the submission of fingerprints for the purpose of conducting summary criminal history information record checks which are authorized by law.

(*l*) Any local criminal justice agency may release, within five years of the arrest, information concerning an arrest or detention of a peace officer or applicant for a position as a peace officer, as defined in Section 830, which did not result in conviction, and for which the person did not complete a postarrest diversion program or a deferred entry of judgment program, to a government agency employer of that peace officer or applicant.

(m) Any local criminal justice agency may release information concerning an arrest of a peace officer or applicant for a position as a peace officer, as defined in Section 830, which did not result in conviction but for which the person completed a postarrest diversion program or a deferred entry of judgment program, or information concerning a referral to and participation in any postarrest diversion program or a deferred

entry of judgment program to a government agency employer of that peace officer or applicant.

(n) Notwithstanding subdivision (*l*) or (m), a local criminal justice agency shall not release information under the following circumstances:

(1) Information concerning an arrest for which diversion or a deferred entry of judgment program has been ordered without attempting to determine whether diversion or a deferred entry of judgment program has been successfully completed.

(2) Information concerning an arrest or detention followed by a dismissal or release without attempting to determine whether the individual was exonerated.

(3) Information concerning an arrest without a disposition without attempting to determine whether diversion has been successfully completed or the individual was exonerated.

SEC. 2. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

CHAPTER 561

An act to amend Section 50650.5 of the Health and Safety Code, relating to housing.

[Approved by Governor October 12, 2007. Filed with Secretary of State October 12, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 50650.5 of the Health and Safety Code is amended to read:

50650.5. For the purposes of this chapter, all of the following shall apply:

(a) Mutual housing, community land trusts, and limited equity cooperative housing shall be deemed to be forms of homeownership and developments of those types of housing, as defined in subdivision (b), shall be eligible to receive assistance under the CalHome Program. The department may require that mutual housing, community land trust, or limited equity cooperative applicants not simultaneously apply for and receive funding through the department's rental housing programs for the same projects for which CalHome assistance is sought. For mutual

housing, community land trust projects that do not convey an interest in real estate to the homebuyer, and limited equity cooperative projects, all of the following shall apply:

(1) Program funds shall be used for permanent financing only.

(2) The department shall enter into a regulatory agreement limiting occupant incomes, occupancy charges, and share purchase terms for 55 years.

(3) Notwithstanding Section 50650.3, program assistance shall be provided in the form of a deferred payment loan.

(b) As used in this section, "mutual housing development" means a housing development owned and sponsored by a nonprofit corporation or a limited partnership in which the nonprofit corporation is the sole general partner, and all of the following requirements are met:

(1) The nonprofit corporation is exempt from taxes under Section 501(c)(3) of the Internal Revenue Code or subdivision (d) of Section 23701 of the Revenue and Taxation Code.

(2) The nonprofit corporation has as one of its principal purposes the advancement of mutual housing.

(3) A majority of the board of directors of the nonprofit corporation sponsor are residents or former residents of developments sponsored by the nonprofit corporation.

(4) The nonprofit corporation agrees to assist the residents of the development in setting up a resident council, and the operating budget for the development provides for ongoing financial support to allow the resident council to carry out its activities.

(c) Lower income participants in a qualified mutual housing development that is assisted pursuant to this chapter shall not be required to have a vested ownership interest in the property.

(d) (1) Funds provided under this chapter may be used to finance either of the following:

(A) The purchase of land beneath a manufactured home or mobilehome by the owner of the home.

(B) The purchase of both the land beneath a manufactured home or mobilehome and the home.

(2) (A) A loan to purchase a subdivided lot in a manufactured housing community or mobilehome park, or both a subdivided lot and the manufactured home or mobilehome that is located on the lot, may be secured either by the land alone or by both the land and the manufactured home or mobilehome.

(B) A loan to purchase an interest in an entity that owns a manufactured housing community or mobilehome park may be secured by an interest in the entity, a manufactured home, or a mobilehome, or both an interest in the entity and the home.

(3) A manufactured home or mobilehome shall not be required to be placed on a permanent foundation as a condition of receiving financing under this chapter.

(4) Funds provided under this chapter shall not be used for a loan to purchase the first lot or space in a manufactured housing community or mobilehome park at the time of the initial conversion of the park to resident ownership unless the conversion meets the two-thirds signature requirement in subdivision (a) of Section 66428.1 of the Government Code, or the transfer of the park to resident ownership has qualified for the change of ownership exclusion under Section 62.1 of the Revenue and Taxation Code.

(5) For purposes of this subdivision, "land beneath a manufactured home or mobilehome" means either a subdivided lot in a manufactured housing community or mobilehome park or a membership, share, certificate, or other interest in the entity that owns the manufactured housing community or mobilehome park, including, but not limited to, a limited equity cooperative, community land trust, or mutual housing association.

(e) Subdivision (a) shall not apply to the financing of an interest in a manufactured housing community or mobilehome park that is organized as mutual housing or a limited equity cooperative.

CHAPTER 562

An act to amend Section 987.65 of the Military and Veterans Code, relating to veterans.

[Approved by Governor October 12, 2007. Filed with Secretary of State October 12, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 987.65 of the Military and Veterans Code is amended to read:

987.65. (a) The purchase price of a home to the department, or the sum to be expended by the department pursuant to a contract for the construction of a dwelling house and other improvements, or the purchase price of a mobilehome sited on a lot owned by the purchaser and installed on a foundation system pursuant to Section 18551 of the Health and Safety Code, or the purchase price of a mobilehome converted to a fixture and improvement to the underlying real property in a mobilehome park that has been converted to a resident-owned subdivision, cooperative,

condominium, or nonprofit corporation as set forth in Section 18555 of the Health and Safety Code, shall not exceed 125 percent of the then current maximum Fannie Mae loan limit that is annually set by Fannie Mae for a single-family home.

(b) The purchase price of a mobilehome that is to be sited in a mobilehome park, as defined in Section 18214 of the Health and Safety Code, in addition to any assistance provided by the department to a veteran pursuant to subdivision (e) of Section 987.85, may not exceed one hundred seventy-five thousand dollars ($175,000).

(c) A veteran purchasing the home may advance, subject to Section 987.64, the difference between the total price or cost of the home and the sum of the purchase price of the home to the department and any amount the department adds, under Section 987.69, to the purchase price of the home in fixing the selling price to the veteran. Any amount of the purchase price to the department may be provided by funds from participation contracts or revenue bonds.

(d) The purchase price of a farm to the department shall not exceed 150 percent of the limit described in subdivision (a). A veteran purchasing the farm may advance the difference between the total price of the farm, or the cost of the dwelling and improvements to be constructed on a farm under a contract, and the sum of the purchase price to the department or contract price to the department and any amount that the department adds, under Section 987.69, to the purchase or contract price to the department in fixing the selling price of the farm to the veteran.

CHAPTER 563

An act to amend Sections 12551, 12552, 12700, 12702, and 12726 of, and to add Sections 12556, 12557, 12703, 12704, 12706, 12727, and 12728 to, the Health and Safety Code, and to add Section 15301 to the Vehicle Code, relating to fireworks.

[Approved by Governor October 12, 2007. Filed with Secretary of State October 12, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 12551 of the Health and Safety Code is amended to read:

12551. The State Fire Marshal shall appoint deputies and employees as may be required to carry out the provisions of this part, subject to approval in the annual Budget Act.

SEC. 2. Section 12552 of the Health and Safety Code is amended to read:

12552. The State Fire Marshal shall adopt regulations relating to fireworks as may be necessary for the protection of life and property not inconsistent with the provisions of this part. These regulations shall include, but are not limited to, provisions for the following:

(a) Granting of licenses and permits for the manufacture, wholesale, import, export, and sale of all classes of fireworks.

(b) Classification of fireworks and pyrotechnic devices.

(c) Registration of employees of licensees.

(d) Licenses and permits required for presentation of public displays.

(e) Granting of licenses and permits for research or experimentation with experimental or model rockets and missiles.

(f) Investigation, examination, and licensing of pyrotechnic operators of all classes.

(g) Registration of emergency signaling devices and the classification and use of exempt fireworks.

(h) Transportation of all classifications of fireworks, model rockets, emergency signaling devices, and exempt fireworks.

SEC. 3. Section 12556 is added to the Health and Safety Code, to read:

12556. In addition to the obligations described in Section 13110.5, on or before July 1, 2008, the State Fire Marshal shall identify and evaluate methods to capture more detailed data relating to fires, damages, and injuries caused by both dangerous fireworks and safe and sane fireworks. These evaluation methods shall include a cost analysis related to capturing and reporting the data and shall meet or exceed the specificity, detail, and reliability of the data captured under the former California Fire Incident Reporting System (CFIRS). The State Fire Marshal shall furnish a copy of these evaluation methods to any interested person upon request.

SEC. 4. Section 12557 is added to the Health and Safety Code, to read:

12557. (a) The Office of the State Fire Marshal shall consult with public safety agencies and other stakeholders as deemed necessary by the State Fire Marshal and develop a model ordinance that permits local jurisdictions to adopt a streamlined enforcement and administrative fine procedures related to the possession of 25 pounds or less of dangerous fireworks. These procedures shall be limited to civil fines and as authorized pursuant to Section 53069.4 of the Government Code, and provide that the fines collected pursuant to this section shall not be subject to Section 12706. The model ordinance shall include provisions for reimbursing the Office of the State Fire Marshal for the costs associated

with the disposal of seized fireworks and collecting these disposal costs as part of an administrative fine as described in subdivision (c).

(b) An ordinance of a local jurisdiction in effect on or after January 1, 2008, that is related to dangerous fireworks and is not the model ordinance described in subdivision (a) shall, as soon as practicable, comply with all of the following:

(1) The ordinance shall be amended or adopted to include provisions for cost reimbursement to the Office of the State Fire Marshal and the collection of disposal costs as part of an administrative fine as described in subdivision (c).

(2) The ordinance shall be amended or adopted to provide that the ordinance shall be limited to a person who possesses or the seizure of 25 pounds or less of dangerous fireworks.

(3) The ordinance shall be amended or adopted to provide that the fines collected pursuant to the ordinance shall not be subject to Section 12706.

(c) The State Fire Marshal shall, in consultation with local jurisdictions, develop regulations to specify a procedure on how to cover the cost to the Office of the State Fire Marshal for the transportation and disposal of dangerous fireworks that are seized by local jurisdictions. The regulations shall include, but are not limited to, all of the following:

(1) A cost recovery procedure to collect, as part of an administrative fine, the actual cost for transportation and disposal of dangerous fireworks from any person who violates a local ordinance related to dangerous fireworks.

(2) The method by which the actual cost for transportation and disposal by the Office of the State Fire Marshal will be calculated.

(3) The method, manner, and procedure the local jurisdiction is required to follow to forward the amounts collected pursuant to paragraph (1) to the State Fire Marshal.

SEC. 5. Section 12700 of the Health and Safety Code is amended to read:

12700. (a) Except as provided in Section 12702 and subdivision (b), a person who violates any provision of this part, or any regulations issued pursuant to this part, is guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than five hundred dollars ($500) or more than one thousand dollars ($1,000), or by imprisonment in the county jail for not exceeding one year, or by both that fine and imprisonment.

(b) A person who violates any provision of this part, or any regulations issued pursuant to this part, by possessing dangerous fireworks shall be subject to the following:

(1) A person who possesses a gross weight, including packaging, of less than 25 pounds of unaltered dangerous fireworks, as defined in Section 12505, is guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than five hundred dollars ($500) or more than one thousand dollars ($1,000), or by imprisonment in the county jail for not exceeding one year, or both that fine and imprisonment. Upon a second or subsequent conviction, a person shall be punished by a fine of not less than one thousand dollars ($1,000) or by imprisonment in a county jail not exceeding one year or by both that fine and imprisonment.

(2) A person who possesses a gross weight, including packaging, of not less than 25 pounds or more than 100 pounds of unaltered dangerous fireworks, as defined in Section 12505, is guilty of a public offense, and upon conviction shall be punished by imprisonment in the county jail for not more than one year, or by a fine of not less than one thousand dollars ($1,000) or more than five thousand dollars ($5,000), or by both that fine and imprisonment.

(3) A person who possesses a gross weight, including packaging, of not less than 100 pounds or more than 5,000 pounds of unaltered dangerous fireworks, as defined in Section 12505, is guilty of a public offense, and upon conviction shall be punished by imprisonment in the state prison or the county jail for not more than one year, or by a fine of not less than five thousand dollars ($5,000) or more than ten thousand dollars ($10,000), or by both that fine and imprisonment.

(4) A person who possesses a gross weight, including packaging, of more than 5,000 pounds of unaltered dangerous fireworks, as defined in Section 12505, is guilty of a public offense, and upon conviction shall be punished by imprisonment in the state prison or the county jail for not more than one year, or by a fine of not less than ten thousand dollars ($10,000) or more than fifty thousand dollars ($50,000), or by both that fine and imprisonment.

(c) Subdivision (b) shall not apply to a person who holds and is operating within the scope of a valid license as described in Section 12516 or valid permit as described in Section 12522.

SEC. 6. Section 12702 of the Health and Safety Code is amended to read:

12702. Notwithstanding the provisions of Section 12700:

(a) A person who violates this part by selling, giving, or delivering any dangerous fireworks to any person under 18 years of age is guilty of a misdemeanor and upon a first conviction shall be punished as prescribed in subdivision (b) of Section 12700.

(b) Upon a second or subsequent conviction of the offense, the person shall be punished by an additional fine of five thousand dollars ($5,000),

or by imprisonment in a county jail for up to one year or by both that fine and imprisonment. The person shall not be granted probation and the execution of the sentence imposed upon the person shall not be suspended by the court.

SEC. 7. Section 12703 is added to the Health and Safety Code, to read:

12703. (a) The State Fire Marshal shall, in conjunction with the Department of Motor Vehicles, develop regulations and procedures to temporarily suspend the commercial motor vehicle license of a person who is operating a commercial motor vehicle while transporting unaltered dangerous fireworks, as defined in Section 12505, having a gross weight, including packaging, of 10,000 pounds or more.

(b) A driver of a commercial motor vehicle shall not operate a commercial motor vehicle for three years if the driver is convicted of transporting unaltered dangerous fireworks, as defined in Section 12505, having a gross weight, including packaging, of 10,000 pounds or more, as described in Section 15301 of the Vehicle Code.

(c) This section shall not apply to a person who holds and is operating within the scope of a valid license as described in Section 12516 or valid permit as described in Section 12522.

SEC. 8. Section 12704 is added to the Health and Safety Code, to read:

12704. The State Fire Marshal, at least once a year and in consultation with the Attorney General, shall serve notice to any individual or business known to supply fireworks that any unauthorized shipments of fireworks into California will result in an immediate report to federal authorities with a request for any relevant federal prosecution.

SEC. 9. Section 12706 is added to the Health and Safety Code, to read:

12706. Notwithstanding Section 1463 of the Penal Code, all fines and forfeitures imposed by or collected in any court of this state, except for administrative fines described in Section 12557, as a result of citations issued by a public safety agency, for any violation of subdivision (b) of Section 12700 or of any regulation adopted pursuant to subdivision (b) of Section 12700, shall be deposited, as soon as practicable after the receipt of the fine or forfeiture, with the county treasurer of the county in which the court is situated. Amounts deposited pursuant to this section shall be paid at least once a month as follows:

(a) Sixty-five percent to the Treasurer, by warrant of the county auditor drawn upon the requisition of the clerk or judge of the court, for deposit in the State Fire Marshal Fireworks Enforcement and Disposal Fund, as described in Section 12728, on order of the Controller. At the time of the transmittal, the county auditor shall forward to the Controller, on the

form or forms prescribed by the Controller, a record of the imposition, collection, and payments of the fines or forfeitures.

(b) Thirty-five percent to the local public safety agency in the county in which the offense was committed to reimburse the local public safety agency for expenses, including, but not limited to, the costs for handling, processing, photographing, and storing seized dangerous fireworks.

SEC. 10. Section 12726 of the Health and Safety Code is amended to read:

12726. (a) The dangerous fireworks seized pursuant to this part shall be disposed of by the State Fire Marshal in the manner prescribed by the State Fire Marshal at any time after the final determination of proceedings under Section 12724, or upon final termination of proceedings under Section 12593, whichever is later. If no proceedings are commenced pursuant to Section 12724, the State Fire Marshal may dispose of the fireworks after all of the following requirements are satisfied:

(1) A random sampling of the dangerous fireworks has been taken, as defined by regulations adopted by the State Fire Marshal pursuant to Section 12552.

(2) The analysis of the random sampling has been completed.

(3) Photographs have been taken of the dangerous fireworks to be destroyed.

(4) The State Fire Marshal has given written approval for the destruction of the dangerous fireworks. This approval shall specify the total weight of the dangerous fireworks seized, the total weight of the dangerous fireworks to be destroyed, and the total weight of the dangerous fireworks not to be destroyed.

(b) To carry out the purposes of this section, the State Fire Marshal shall acquire and use statewide mobile dangerous fireworks destruction units to collect and destroy seized dangerous fireworks from local and state agencies.

(c) If dangerous fireworks are seized pursuant to a local ordinance that provides for administrative fines or penalties and these fines or penalties are collected, the local government entity collecting the fines or penalties shall forward 65 percent of the collected moneys to the Controller for deposit in the State Fire Marshal Fireworks Enforcement and Disposal Fund, as described in Section 12728.

SEC. 11. Section 12727 is added to the Health and Safety Code, to read:

12727. (a) The State Fire Marshal shall establish regulations pursuant to the requirements and procedures established with the Office of Administrative Law to assess fees on all import and export, wholesale,

and retail fireworks licensees in California to be deposited in the State Fire Marshal Fireworks Enforcement and Disposal Fund.

(b) In determining the appropriate amount of the fees described in subdivision (a), the State Fire Marshal shall consult with the fireworks industry and import and export, wholesale, and retail fireworks licensees.

(c) The total amount of the fees collected shall not exceed the reasonable costs of the statewide programs described in subdivision (c) of Section 12728.

SEC. 12. Section 12728 is added to the Health and Safety Code, to read:

12728. (a) The State Fire Marshal Fireworks Enforcement and Disposal Fund is hereby established in the State Treasury.

(b) All of the moneys collected pursuant to Section 12706 shall be deposited in the fund and shall be available, upon appropriation by the Legislature, to the State Fire Marshal for the exclusive use in statewide programs for the enforcement, prosecution related to, disposal, and management of seized dangerous fireworks, and for the education of public safety agencies in the proper handling and management of dangerous fireworks.

(c) All of the moneys collected pursuant to Section 12727 shall be deposited in the fund and shall be available, upon appropriation by the Legislature, to the State Fire Marshal for the exclusive use in statewide programs for all of the following:

(1) To further assist in statewide programs for the enforcement, prosecution related to, disposal, and management of seized dangerous fireworks.

(2) The education of public safety agencies in the proper handling and management of dangerous fireworks as well as safety issues involving all fireworks and explosives.

(3) Assist the State Fire Marshal in identifying and evaluating methods to capture more detailed data relating to fires, damages, and injuries caused by both dangerous and safe and sane fireworks, and to assist with funding the eventual development and implementation of those methods.

(4) To further assist in public safety and education efforts within the general public as well as public safety agencies on the proper and responsible use of safe and sane fireworks.

SEC. 13. Section 15301 is added to the Vehicle Code, to read:

15301. The Department of Motor Vehicles, in conjunction with the State Fire Marshal, shall develop regulations and procedures to temporarily suspend the commercial motor vehicle license of a person who is operating a commercial motor vehicle while transporting dangerous fireworks having a gross weight of 10,000 pounds or more. A driver of a commercial motor vehicle shall not operate a commercial

motor vehicle for three years if the driver is convicted of transporting dangerous fireworks having a gross weight of 10,000 pounds or more.

SEC. 14. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because, in that regard, this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

CHAPTER 564

An act to amend Sections 13957, 13957.2, and 13959 of the Government Code, relating to victims of crime, and making an appropriation therefor.

[Approved by Governor October 12, 2007. Filed with Secretary of State October 12, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 13957 of the Government Code is amended to read:

13957. (a) The board may grant for pecuniary loss, when the board determines it will best aid the person seeking compensation, as follows:

(1) Subject to the limitations set forth in Section 13957.2, reimburse the amount of medical or medical-related expenses incurred by the victim, including, but not limited to, eyeglasses, hearing aids, dentures, or any prosthetic device taken, lost, or destroyed during the commission of the crime, or the use of which became necessary as a direct result of the crime.

(2) Subject to the limitations set forth in Section 13957.2, reimburse the amount of outpatient psychiatric, psychological, or other mental health counseling-related expenses incurred by the victim or derivative victim, including peer counseling services provided by a rape crisis center as defined by Section 13837 of the Penal Code, and including

family psychiatric, psychological, or mental health counseling for the successful treatment of the victim provided to family members of the victim in the presence of the victim, whether or not the family member relationship existed at the time of the crime, that became necessary as a direct result of the crime, subject to the following conditions:

(A) The following persons may be reimbursed for the expense of their outpatient mental health counseling in an amount not to exceed ten thousand dollars ($10,000):

(i) A victim.

(ii) A derivative victim who is the surviving parent, sibling, child, spouse, fiancé, or fiancée of a victim of a crime that directly resulted in the death of the victim.

(iii) A derivative victim, as described in paragraphs (1) to (4), inclusive, of subdivision (c) of Section 13955, who is the primary caretaker of a minor victim whose claim is not denied or reduced pursuant to Section 13956 in a total amount not to exceed ten thousand dollars ($10,000) for not more than two derivative victims.

(B) The following persons may be reimbursed for the expense of their outpatient mental health counseling in an amount not to exceed five thousand dollars ($5,000):

(i) A derivative victim not eligible for reimbursement pursuant to subparagraph (A), provided that mental health counseling of a derivative victim described in paragraph (5) of subdivision (c) of Section 13955, shall be reimbursed only if that counseling is necessary for the treatment of the victim.

(ii) A victim of a crime of unlawful sexual intercourse with a minor committed in violation of subdivision (d) of Section 261.5 of the Penal Code. A derivative victim of a crime committed in violation of subdivision (d) of Section 261.5 of the Penal Code shall not be eligible for reimbursement of mental health counseling expenses.

(C) The board may reimburse a victim or derivative victim for outpatient mental health counseling in excess of that authorized by subparagraphs (A) or (B) or for inpatient psychiatric, psychological, or other mental health counseling if the claim is based on dire or exceptional circumstances that require more extensive treatment, as approved by the board.

(D) Expenses for psychiatric, psychological, or other mental health counseling related services may be reimbursed only if the services were provided by either of the following individuals:

(i) A person who would have been authorized to provide those services pursuant to former Article 1 (commencing with Section 13959) as it read on January 1, 2002.

(ii) A person who is licensed by the state to provide those services, or who is properly supervised by a person who is so licensed, subject to the board's approval and subject to the limitations and restrictions the board may impose.

(3) Reimburse the expenses of nonmedical remedial care and treatment rendered in accordance with a religious method of healing recognized by state law.

(4) Subject to the limitations set forth in Section 13957.5, authorize compensation equal to the loss of income or loss of support, or both, that a victim or derivative victim incurs as a direct result of the victim's or derivative victim's injury or the victim's death. If the victim or derivative victim requests that the board give priority to reimbursement of loss of income or support, the board may not pay medical expenses, or mental health counseling expenses, except upon the request of the victim or derivative victim or after determining that payment of these expenses will not decrease the funds available for payment of loss of income or support.

(5) Authorize a cash payment to or on behalf of the victim for job retraining or similar employment-oriented services.

(6) Reimburse the claimant for the expense of installing or increasing residential security, not to exceed one thousand dollars ($1,000). Reimbursement shall be made either upon verification by law enforcement that the security measures are necessary for the personal safety of the claimant or verification by a mental health treatment provider that the security measures are necessary for the emotional well-being of the claimant. For purposes of this paragraph, a claimant is the crime victim, or, if the victim is deceased, a person who resided with the deceased at the time of the crime. Installing or increasing residential security may include, but need not be limited to, both of the following:

(A) Home security device or system.

(B) Replacing or increasing the number of locks.

(7) Reimburse the expense of renovating or retrofitting a victim's residence or a vehicle, or both, to make the residence, the vehicle, or both, accessible or the vehicle operational by a victim upon verification that the expense is medically necessary for a victim who is permanently disabled as a direct result of the crime, whether the disability is partial or total.

(8) (A) Authorize a cash payment or reimbursement not to exceed two thousand dollars ($2,000) to a victim for expenses incurred in relocating, if the expenses are determined by law enforcement to be necessary for the personal safety of the victim or by a mental health

treatment provider to be necessary for the emotional well-being of the victim.

(B) The cash payment or reimbursement made under this paragraph shall only be awarded to one victim per crime giving rise to the relocation. The board may authorize more than one relocation per crime if necessary for the personal safety or emotional well-being of the victim. However, the total cash payment or reimbursement for all relocations due to the same crime shall not exceed two thousand dollars ($2,000).

(C) The board may, under compelling circumstances, award a second cash payment or reimbursement to a victim for another crime if both of the following conditions are met:

(i) The crime occurs more than three years from the date of the crime giving rise to the initial relocation cash payment or reimbursement.

(ii) The crime does not involve the same offender.

(D) When a relocation payment or reimbursement is provided to a victim of sexual assault or domestic violence and the identity of the offender is known to the victim, the victim shall agree not to inform the offender of the location of the victim's new residence and not to allow the offender on the premises at any time, or shall agree to seek a restraining order against the offender.

(9) When a victim dies as a result of a crime, the board may reimburse any individual who voluntarily, and without anticipation of personal gain, pays or assumes the obligation to pay any of the following expenses:

(A) The medical expenses incurred as a direct result of the crime in an amount not to exceed the rates or limitations established by the board.

(B) The funeral and burial expenses incurred as a direct result of the crime, not to exceed seven thousand five hundred dollars ($7,500).

(10) When the crime occurs in a residence, the board may reimburse any individual who voluntarily, and without anticipation of personal gain, pays or assumes the obligation to pay the reasonable costs to clean the scene of the crime in an amount not to exceed one thousand dollars ($1,000). Services reimbursed pursuant to this subdivision shall be performed by persons registered with the State Department of Public Health as trauma scene waste practitioners in accordance with Chapter 9.5 (commencing with Section 118321) of Part 14 of Division 104 of the Health and Safety Code.

(11) Reimburse the licensed child care expenses necessarily incurred by a victim or derivative victim as a direct result of a crime that resulted in physical injury or death, if the following conditions are met:

(A) The injured or deceased victim was a primary caregiver for the victim's dependent children.

(B) The total reimbursement for all child care expenses does not exceed five thousand dollars ($5,000). The board shall have the ability

to set a lower reimbursement amount if necessary to protect the solvency of the Restitution Fund.

(C) The periods of time for which child care expenses may be reimbursed do not exceed a total of 180 days. The time periods need not be continuous.

(D) The child care expenses are consistent with the usual and customary rates charged by the child care provider for other children in the provider's care. If the provider only cares for the victim's children, the reimbursement rate shall not exceed two hundred dollars ($200) per week for one child or four hundred dollars ($400) per week for two or more children subject to the limit in subparagraph (E).

(E) No victim or derivative victim may receive reimbursement for child care expenses in addition to reimbursement subject to paragraph (4).

(F) This paragraph is a pilot program and shall be operative only until January 1, 2010.

(b) The total award to or on behalf of each victim or derivative victim may not exceed thirty-five thousand dollars ($35,000), except that this amount may be increased to seventy thousand dollars ($70,000) if federal funds for that increase are available.

SEC. 2. Section 13957.2 of the Government Code is amended to read:

13957.2. (a) The board may establish maximum rates and service limitations for reimbursement of medical and medical-related services and for mental health and counseling services. The adoption, amendment, and repeal of these service limitations and maximum rates shall not be subject to the rulemaking provision of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1). An informational copy of the service limitations and maximum rates shall be filed with the Secretary of State upon adoption by the board. A provider who accepts payment from the program for a service shall accept the program's rates as payment in full and shall not accept any payment on account of the service from any other source if the total of payments accepted would exceed the maximum rate set by the board for that service. To ensure service limitations that are uniform and appropriate to the levels of treatment required by the victim or derivative victim, the board may review all claims for these services as necessary to ensure their medical necessity.

(b) The board may request an independent examination and report from any provider of medical or medical-related services or psychological or psychiatric treatment or mental health counseling services, if it believes there is a reasonable basis for requesting an additional evaluation. The victim or derivative victim shall be notified of the name of the provider

who is to perform the evaluation within 30 calendar days of that determination. In cases where the crime involves sexual assault, the provider shall have expertise in the needs of sexual assault victims. In cases where the crime involves child abuse or molestation, the provider shall have expertise in the needs of victims of child abuse or molestation, as appropriate. When a reevaluation is requested, payments shall not be discontinued prior to completion of the reevaluation.

(c) Reimbursement for any medical or medical-related services shall, if the application has been approved, be paid by the board within an average of 90 days from receipt of the claim for payment. Payments to a medical or mental health provider may not be discontinued prior to completion of any reevaluation. Whether or not a reevaluation is obtained, if the board determines that payments to a provider will be discontinued, the board shall notify the provider of their discontinuance within 30 calendar days of its determination.

SEC. 3. Section 13959 of the Government Code is amended to read:

13959. (a) The board shall grant a hearing to an applicant who believes he or she is entitled to compensation pursuant to this chapter to contest a staff recommendation to deny compensation in whole or in part.

(b) The board shall notify the applicant not less than 10 days prior to the date of the hearing. Notwithstanding Section 11123, if the application that the board is considering involves either a crime against a minor, a crime of sexual assault, or a crime of domestic violence, the board may exclude from the hearing all persons other than board members and members of its staff, the applicant for benefits, a minor applicant's parents or guardians, the applicant's representative, any witnesses, and other persons of the applicant's choice to provide assistance to the applicant during the hearing. However, the board may not exclude persons from the hearing if the applicant or applicant's representative requests that the hearing be open to the public.

(c) At the hearing, the person seeking compensation shall have the burden of establishing, by a preponderance of the evidence, the elements for eligibility under Section 13955.

(d) Except as otherwise provided by law, in making determinations of eligibility for compensation and in deciding upon the amount of compensation, the board shall apply the law in effect as of the date an application was submitted.

(e) The hearing shall be informal and need not be conducted according to the technical rules relating to evidence and witnesses. The board may rely on any relevant evidence if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule

that might make improper the admission of the evidence over objection in a civil action. The board may rely on written reports prepared for the board, or other information received, from public agencies responsible for investigating the crime. If the applicant or the applicant's representative chooses not to appear at the hearing, the board may act solely upon the application for compensation, the staff's report, and other evidence that appears in the record.

(f) Hearings shall be held in various locations with the frequency necessary to provide for the speedy adjudication of the applications. If the applicant's presence is required at the hearing, the board shall schedule the applicant's hearing in as convenient a location as possible.

(g) The board may delegate the hearing of applications to hearing officers.

(h) The decisions of the board shall be in writing. Copies of the decisions shall be delivered to the applicant or to his or her representative personally or sent to them by mail.

(i) The board may order a reconsideration of all or part of a decision on written request of the applicant. The board may not grant more than one request for consideration with respect to any one decision on any application for compensation. The board may not consider any request for consideration filed with the board more than 30 calendar days after the personal delivery or 60 calendar days after the mailing of the original decision.

(j) The board may order a reconsideration of all or part of a decision on its own motion, at its discretion, at any time.

CHAPTER 565

An act to amend Sections 361.5, 366.21, 366.22, 366.26, and 366.3 of the Welfare and Institutions Code, relating to relative caregivers.

[Approved by Governor October 12, 2007. Filed with Secretary of State October 12, 2007.]

The people of the State of California do enact as follows:

SECTION 1. Section 361.5 of the Welfare and Institutions Code is amended to read:

361.5. (a) Except as provided in subdivision (b), or when the parent has voluntarily relinquished the child and the relinquishment has been filed with the State Department of Social Services, or upon the establishment of an order of guardianship pursuant to Section 360,

whenever a child is removed from a parent's or guardian's custody, the juvenile court shall order the social worker to provide child welfare services to the child and the child's mother and statutorily presumed father or guardians. Upon a finding and declaration of paternity by the juvenile court or proof of a prior declaration of paternity by any court of competent jurisdiction, the juvenile court may order services for the child and the biological father, if the court determines that the services will benefit the child. Child welfare services, when provided, shall be provided as follows:

(1) For a child who, on the date of initial removal from the physical custody of his or her parent or guardian, was three years of age or older, court-ordered services shall not exceed a period of 12 months from the date the child entered foster care, except as otherwise provided in paragraph (3).

(2) For a child who, on the date of initial removal from the physical custody of his or her parent or guardian, was under the age of three years, court-ordered services shall not exceed a period of six months from the date the child entered foster care.

(3) For the purpose of placing and maintaining a sibling group together in a permanent home should reunification efforts fail, for a child in a sibling group whose members were removed from parental custody at the same time, and in which one member of the sibling group was under the age of three years on the date of initial removal from the physical custody of his or her parent or guardian, court-ordered services to some or all of the sibling group may be limited to a period of six months from the date the child entered foster care. For the purposes of this paragraph, "a sibling group" shall mean two or more children who are related to each other as full or half-siblings.

Regardless of the age of the child, a child shall be deemed to have entered foster care on the earlier of the date of the jurisdictional hearing held pursuant to Section 356 or the date that is 60 days after the date on which the child was initially removed from the physical custody of his or her parent or guardian.

Notwithstanding paragraphs (1), (2), and (3), court-ordered services may be extended up to a maximum time period not to exceed 18 months after the date the child was originally removed from physical custody of his or her parent or guardian if it can be shown, at the hearing held pursuant to subdivision (f) of Section 366.21, that the permanent plan for the child is that he or she will be returned and safely maintained in the home within the extended time period. The court shall extend the time period only if it finds that there is a substantial probability that the child will be returned to the physical custody of his or her parent or guardian within the extended time period or that reasonable services

have not been provided to the parent or guardian. If the court extends the time period, the court shall specify the factual basis for its conclusion that there is a substantial probability that the child will be returned to the physical custody of his or her parent or guardian within the extended time period. The court also shall make findings pursuant to subdivision (a) of Section 366 and subdivision (e) of Section 358.1.

When counseling or other treatment services are ordered, the parent or guardian shall be ordered to participate in those services, unless the parent's or guardian's participation is deemed by the court to be inappropriate or potentially detrimental to the child. Physical custody of the child by the parents or guardians during the applicable time period under paragraph (1), (2), or (3) shall not serve to interrupt the running of the period. If at the end of the applicable time period, a child cannot be safely returned to the care and custody of a parent or guardian without court supervision, but the child clearly desires contact with the parent or guardian, the court shall take the child's desire into account in devising a permanency plan.

In cases where the child was under the age of three years on the date of the initial removal from the physical custody of his or her parent or guardian or is a member of a sibling group as described in paragraph (3), the court shall inform the parent or guardian that the failure of the parent or guardian to participate regularly in any court-ordered treatment programs or to cooperate or avail himself or herself of services provided as part of the child welfare services case plan may result in a termination of efforts to reunify the family after six months. The court shall inform the parent or guardian of the factors used in subdivision (e) of Section 366.21 to determine whether to limit services to six months for some or all members of a sibling group as described in paragraph (3).

Except in cases where, pursuant to subdivision (b), the court does not order reunification services, the court shall inform the parent or parents of Section 366.26 and shall specify that the parent's or parents' parental rights may be terminated.

(b) Reunification services need not be provided to a parent or guardian described in this subdivision when the court finds, by clear and convincing evidence, any of the following:

(1) That the whereabouts of the parent or guardian is unknown. A finding pursuant to this paragraph shall be supported by an affidavit or by proof that a reasonably diligent search has failed to locate the parent or guardian. The posting or publication of notices is not required in that search.

(2) That the parent or guardian is suffering from a mental disability that is described in Chapter 2 (commencing with Section 7820) of Part

4 of Division 12 of the Family Code and that renders him or her incapable of utilizing those services.

(3) That the child or a sibling of the child has been previously adjudicated a dependent pursuant to any subdivision of Section 300 as a result of physical or sexual abuse, that following that adjudication the child had been removed from the custody of his or her parent or guardian pursuant to Section 361, that the child has been returned to the custody of the parent or guardian from whom the child had been taken originally, and that the child is being removed pursuant to Section 361, due to additional physical or sexual abuse.

(4) That the parent or guardian of the child has caused the death of another child through abuse or neglect.

(5) That the child was brought within the jurisdiction of the court under subdivision (e) of Section 300 because of the conduct of that parent or guardian.

(6) That the child has been adjudicated a dependent pursuant to any subdivision of Section 300 as a result of severe sexual abuse or the infliction of severe physical harm to the child, a sibling, or a half sibling by a parent or guardian, as defined in this subdivision, and the court makes a factual finding that it would not benefit the child to pursue reunification services with the offending parent or guardian.

A finding of severe sexual abuse, for the purposes of this subdivision, may be based on, but is not limited to, sexual intercourse, or stimulation involving genital-genital, oral-genital, anal-genital, or oral-anal contact, whether between the parent or guardian and the child or a sibling or half sibling of the child, or between the child or a sibling or half sibling of the child and another person or animal with the actual or implied consent of the parent or guardian; or the penetration or manipulation of the child's, sibling's, or half sibling's genital organs or rectum by any animate or inanimate object for the sexual gratification of the parent or guardian, or for the sexual gratification of another person with the actual or implied consent of the parent or guardian.

A finding of the infliction of severe physical harm, for the purposes of this subdivision, may be based on, but is not limited to, deliberate and serious injury inflicted to or on a child's body or the body of a sibling or half sibling of the child by an act or omission of the parent or guardian, or of another individual or animal with the consent of the parent or guardian; deliberate and torturous confinement of the child, sibling, or half sibling in a closed space; or any other torturous act or omission that would be reasonably understood to cause serious emotional damage.

(7) That the parent is not receiving reunification services for a sibling or a half sibling of the child pursuant to paragraph (3), (5), or (6).

(8) That the child was conceived by means of the commission of an offense listed in Section 288 or 288.5 of the Penal Code, or by an act committed outside of this state that, if committed in this state, would constitute one of those offenses. This paragraph only applies to the parent who committed the offense or act.

(9) That the child has been found to be a child described in subdivision (g) of Section 300, that the parent or guardian of the child willfully abandoned the child, and the court finds that the abandonment itself constituted a serious danger to the child; or that the parent or other person having custody of the child voluntarily surrendered physical custody of the child pursuant to Section 1255.7 of the Health and Safety Code. For the purposes of this paragraph, "serious danger" means that without the intervention of another person or agency, the child would have sustained severe or permanent disability, injury, illness, or death. For purposes of this paragraph, "willful abandonment" shall not be construed as actions taken in good faith by the parent without the intent of placing the child in serious danger.

(10) That the court ordered termination of reunification services for any siblings or half siblings of the child because the parent or guardian failed to reunify with the sibling or half sibling after the sibling or half sibling had been removed from that parent or guardian pursuant to Section 361 and that parent or guardian is the same parent or guardian described in subdivision (a) and that, according to the findings of the court, this parent or guardian has not subsequently made a reasonable effort to treat the problems that led to removal of the sibling or half sibling of that child from that parent or guardian.

(11) That the parental rights of a parent over any sibling or half sibling of the child had been permanently severed, and this parent is the same parent described in subdivision (a), and that, according to the findings of the court, this parent has not subsequently made a reasonable effort to treat the problems that led to removal of the sibling or half sibling of that child from the parent.

(12) That the parent or guardian of the child has been convicted of a violent felony, as defined in subdivision (c) of Section 667.5 of the Penal Code.

(13) That the parent or guardian of the child has a history of extensive, abusive, and chronic use of drugs or alcohol and has resisted prior court-ordered treatment for this problem during a three-year period immediately prior to the filing of the petition that brought that child to the court's attention, or has failed or refused to comply with a program of drug or alcohol treatment described in the case plan required by Section 358.1 on at least two prior occasions, even though the programs identified were available and accessible.

(14) That the parent or guardian of the child has advised the court that he or she is not interested in receiving family maintenance or family reunification services or having the child returned to or placed in his or her custody and does not wish to receive family maintenance or reunification services.

The parent or guardian shall be represented by counsel and shall execute a waiver of services form to be adopted by the Judicial Council. The court shall advise the parent or guardian of any right to services and of the possible consequences of a waiver of services, including the termination of parental rights and placement of the child for adoption. The court shall not accept the waiver of services unless it states on the record its finding that the parent or guardian has knowingly and intelligently waived the right to services.

(15) That the parent or guardian has on one or more occasions willfully abducted the child or child's sibling or half sibling from his or her placement and refused to disclose the child's or child's sibling's or half sibling's whereabouts, refused to return physical custody of the child or child's sibling or half sibling to his or her placement, or refused to return physical custody of the child or child's sibling or half sibling to the social worker.

(c) In deciding whether to order reunification in any case in which this section applies, the court shall hold a dispositional hearing. The social worker shall prepare a report that discusses whether reunification services shall be provided. When it is alleged, pursuant to paragraph (2) of subdivision (b), that the parent is incapable of utilizing services due to mental disability, the court shall order reunification services unless competent evidence from mental health professionals establishes that, even with the provision of services, the parent is unlikely to be capable of adequately caring for the child within the time limits specified in subdivision (a).

The court shall not order reunification for a parent or guardian described in paragraph (3), (4), (6), (7), (8), (9), (10), (11), (12), (13), (14), or (15) of subdivision (b) unless the court finds, by clear and convincing evidence, that reunification is in the best interest of the child.

In addition, the court shall not order reunification in any situation described in paragraph (5) of subdivision (b) unless it finds that, based on competent testimony, those services are likely to prevent reabuse or continued neglect of the child or that failure to try reunification will be detrimental to the child because the child is closely and positively attached to that parent. The social worker shall investigate the circumstances leading to the removal of the child and advise the court whether there are circumstances that indicate that reunification is likely

to be successful or unsuccessful and whether failure to order reunification is likely to be detrimental to the child.

The failure of the parent to respond to previous services, the fact that the child was abused while the parent was under the influence of drugs or alcohol, a past history of violent behavior, or testimony by a competent professional that the parent's behavior is unlikely to be changed by services are among the factors indicating that reunification services are unlikely to be successful. The fact that a parent or guardian is no longer living with an individual who severely abused the child may be considered in deciding that reunification services are likely to be successful, provided that the court shall consider any pattern of behavior on the part of the parent that has exposed the child to repeated abuse.

(d) If reunification services are not ordered pursuant to paragraph (1) of subdivision (b) and the whereabouts of a parent become known within six months of the out-of-home placement of the child, the court shall order the social worker to provide family reunification services in accordance with this subdivision.

(e) (1) If the parent or guardian is incarcerated or institutionalized, the court shall order reasonable services unless the court determines, by clear and convincing evidence, those services would be detrimental to the child. In determining detriment, the court shall consider the age of the child, the degree of parent-child bonding, the length of the sentence, the nature of the treatment, the nature of the crime or illness, the degree of detriment to the child if services are not offered and, for children 10 years of age or older, the child's attitude toward the implementation of family reunification services, and any other appropriate factors. Reunification services are subject to the applicable time limitations imposed in subdivision (a). Services may include, but shall not be limited to, all of the following:

(A) Maintaining contact between the parent and child through collect telephone calls.

(B) Transportation services, where appropriate.

(C) Visitation services, where appropriate.

(D) Reasonable services to extended family members or foster parents providing care for the child if the services are not detrimental to the child.

An incarcerated parent may be required to attend counseling, parenting classes, or vocational training programs as part of the service plan if these programs are available.

(2) The presiding judge of the juvenile court of each county may convene representatives of the county welfare department, the sheriff's department, and other appropriate entities for the purpose of developing and entering into protocols for ensuring the notification, transportation,

and presence of an incarcerated or institutionalized parent at all court hearings involving proceedings affecting the child pursuant to Section 2625 of the Penal Code.

(3) Notwithstanding any other provision of law, if the incarcerated parent is a woman seeking to participate in the community treatment program operated by the Department of Corrections and Rehabilitation pursuant to Chapter 4.8 (commencing with Section 1174) of Title 7 of Part 2 of, Chapter 4 (commencing with Section 3410) of Title 2 of Part 3 of, the Penal Code, the court shall determine whether the parent's participation in a program is in the child's best interest and whether it is suitable to meet the needs of the parent and child.

(f) If the court, pursuant to paragraph (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), (13), (14), or (15) of subdivision (b) or paragraph (1) of subdivision (e), does not order reunification services, it shall, at the dispositional hearing, that shall include a permanency hearing, determine if a hearing under Section 366.26 shall be set in order to determine whether adoption, guardianship, or long-term foster care is the most appropriate plan for the child. If the court so determines, it shall conduct the hearing pursuant to Section 366.26 within 120 days after the dispositional hearing. However, the court shall not schedule a hearing so long as the other parent is being provided reunification services pursuant to subdivision (a). The court may continue to permit the parent to visit the child unless it finds that visitation would be detrimental to the child.

(g) (1) Whenever a court orders that a hearing shall be held pursuant to Section 366.26, it shall direct the agency supervising the child and the licensed county adoption agency, or the State Department of Social Services when it is acting as an adoption agency in counties that are not served by a county adoption agency, to prepare an assessment that shall include:

(A) Current search efforts for an absent parent or parents.

(B) A review of the amount of and nature of any contact between the child and his or her parents and other members of his or her extended family since the time of placement. Although the extended family of each child shall be reviewed on a case-by-case basis, "extended family" for the purpose of this subparagraph shall include, but not be limited to, the child's siblings, grandparents, aunts, and uncles.

(C) An evaluation of the child's medical, developmental, scholastic, mental, and emotional status.

(D) A preliminary assessment of the eligibility and commitment of any identified prospective adoptive parent or guardian, particularly the caretaker, to include a social history including screening for criminal records and prior referrals for child abuse or neglect, the capability to

meet the child's needs, and the understanding of the legal and financial rights and responsibilities of adoption and guardianship. If a proposed guardian is a relative of the minor, and the relative was assessed for foster care placement of the minor prior to January 1, 1998, the assessment shall also consider, but need not be limited to, all of the factors specified in subdivision (a) of Section 361.3. As used in this subparagraph, "relative" means an adult who is related to the minor by blood, adoption, or affinity within the fifth degree of kinship, including stepparents, stepsiblings, and all relatives whose status is preceded by the words "great," "great-great," or "grand," or the spouse of any of those persons even if the marriage was terminated by death or dissolution.

(E) The relationship of the child to any identified prospective adoptive parent or guardian, the duration and character of the relationship, the motivation for seeking adoption or guardianship, and a statement from the child concerning placement and the adoption or guardianship, unless the child's age or physical, emotional, or other condition precludes his or her meaningful response, and if so, a description of the condition.

(F) An analysis of the likelihood that the child will be adopted if parental rights are terminated.

(2) (A) A relative caregiver's preference for legal guardianship over adoption, if it is due to circumstances that do not include an unwillingness to accept legal or financial responsibility for the child, shall not constitute the sole basis for recommending removal of the child from the relative caregiver for purposes of adoptive placement.

(B) A relative caregiver shall be given information regarding the permanency options of guardianship and adoption, including the long-term benefits and consequences of each option, prior to establishing legal guardianship or pursuing adoption.

(h) In determining whether reunification services will benefit the child pursuant to paragraph (6) or (7) of subdivision (b), the court shall consider any information it deems relevant, including the following factors:

(1) The specific act or omission comprising the severe sexual abuse or the severe physical harm inflicted on the child or the child's sibling or half sibling.

(2) The circumstances under which the abuse or harm was inflicted on the child or the child's sibling or half sibling.

(3) The severity of the emotional trauma suffered by the child or the child's sibling or half sibling.

(4) Any history of abuse of other children by the offending parent or guardian.

(5) The likelihood that the child may be safely returned to the care of the offending parent or guardian within 12 months with no continuing supervision.

(6) Whether or not the child desires to be reunified with the offending parent or guardian.

(i) The court shall read into the record the basis for a finding of severe sexual abuse or the infliction of severe physical harm under paragraph (6) of subdivision (b), and shall also specify the factual findings used to determine that the provision of reunification services to the offending parent or guardian would not benefit the child.

SEC. 2. Section 366.21 of the Welfare and Institutions Code, as amended by Chapter 177 of the Statutes of 2007, is amended to read:

366.21. (a) Every hearing conducted by the juvenile court reviewing the status of a dependent child shall be placed on the appearance calendar. The court shall advise all persons present at the hearing of the date of the future hearing and of their right to be present and represented by counsel.

(b) Except as provided in Sections 294 and 295, notice of the hearing shall be provided pursuant to Section 293.

(c) At least 10 calendar days prior to the hearing, the social worker shall file a supplemental report with the court regarding the services provided or offered to the parent or legal guardian to enable him or her to assume custody and the efforts made to achieve legal permanence for the child if efforts to reunify fail, including, but not limited to, efforts to maintain relationships between a child who is 10 years of age or older and has been in out-of-home placement for six months or longer and individuals who are important to the child, consistent with the child's best interests; the progress made; and, where relevant, the prognosis for return of the child to the physical custody of his or her parent or legal guardian; and shall make his or her recommendation for disposition. If the child is a member of a sibling group described in paragraph (3) of subdivision (a) of Section 361.5, the report and recommendation may also take into account those factors described in subdivision (e) relating to the child's sibling group. If the recommendation is not to return the child to a parent or legal guardian, the report shall specify why the return of the child would be detrimental to the child. The social worker shall provide the parent or legal guardian, counsel for the child, and any court-appointed child advocate with a copy of the report, including his or her recommendation for disposition, at least 10 calendar days prior to the hearing. In the case of a child removed from the physical custody of his or her parent or legal guardian, the social worker shall, at least 10 calendar days prior to the hearing, provide a summary of his or her recommendation for disposition to any foster parents, relative caregivers,

and certified foster parents who have been approved for adoption by the State Department of Social Services when it is acting as an adoption agency in counties that are not served by a county adoption agency or by a licensed county adoption agency, community care facility, or foster family agency having the physical custody of the child. The social worker shall include a copy of the Judicial Council Caregiver Information Form (JV-290) with the summary of recommendations to the child's foster parents, relative caregivers, or foster parents approved for adoption, in the caregiver's primary language when available, along with information on how to file the form with the court.

(d) Prior to any hearing involving a child in the physical custody of a community care facility or a foster family agency that may result in the return of the child to the physical custody of his or her parent or legal guardian, or in adoption or the creation of a legal guardianship, the facility or agency shall file with the court a report, or a Judicial Council Caregiver Information Form (JV-290), containing its recommendation for disposition. Prior to the hearing involving a child in the physical custody of a foster parent, a relative caregiver, or a certified foster parent who has been approved for adoption by the State Department of Social Services when it is acting as an adoption agency or by a licensed adoption agency, the foster parent, relative caregiver, or the certified foster parent who has been approved for adoption by the State Department of Social Services when it is acting as an adoption agency in counties that are not served by a county adoption agency or by a licensed county adoption agency, may file with the court a report containing his or her recommendation for disposition. The court shall consider the report and recommendation filed pursuant to this subdivision prior to determining any disposition.

(e) At the review hearing held six months after the initial dispositional hearing, the court shall order the return of the child to the physical custody of his or her parent or legal guardian unless the court finds, by a preponderance of the evidence, that the return of the child to his or her parent or legal guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child. The social worker shall have the burden of establishing that detriment. At the hearing, the court shall consider the criminal history, obtained pursuant to paragraph (1) of subdivision (f) of Section 16504.5, of the parent or legal guardian subsequent to the child's removal, provided that he or she agreed to submit fingerprint images to obtain criminal history information as part of the case plan. The failure of the parent or legal guardian to participate regularly and make substantive progress in court-ordered treatment programs shall be prima facie evidence that return would be detrimental. In making its determination, the court shall

review and consider the social worker's report and recommendations and the report and recommendations of any child advocate appointed pursuant to Section 356.5; and shall consider the efforts or progress, or both, demonstrated by the parent or legal guardian and the extent to which he or she availed himself or herself to services provided.

Regardless of whether the child is returned to a parent or legal guardian, the court shall specify the factual basis for its conclusion that the return would be detrimental or would not be detrimental. The court also shall make appropriate findings pursuant to subdivision (a) of Section 366; and, where relevant, shall order any additional services reasonably believed to facilitate the return of the child to the custody of his or her parent or legal guardian. The court shall also inform the parent or legal guardian that if the child cannot be returned home by the 12-month permanency hearing, a proceeding pursuant to Section 366.26 may be instituted. This section does not apply in a case where, pursuant to Section 361.5, the court has ordered that reunification services shall not be provided.

If the child was under the age of three years on the date of the initial removal, or is a member of a sibling group described in paragraph (3) of subdivision (a) of Section 361.5, and the court finds by clear and convincing evidence that the parent failed to participate regularly and make substantive progress in a court-ordered treatment plan, the court may schedule a hearing pursuant to Section 366.26 within 120 days. If, however, the court finds there is a substantial probability that the child, who was under the age of three years on the date of initial removal or is a member of a sibling group described in paragraph (3) of subdivision (a) of Section 361.5, may be returned to his or her parent or legal guardian within six months or that reasonable services have not been provided, the court shall continue the case to the 12-month permanency hearing.

For the purpose of placing and maintaining a sibling group together in a permanent home, the court, in making its determination to schedule a hearing pursuant to Section 366.26 for some or all members of a sibling group, as described in paragraph (3) of subdivision (a) of Section 361.5, shall review and consider the social worker's report and recommendations. Factors the report shall address, and the court shall consider, may include, but need not be limited to, whether the sibling group was removed from parental care as a group, the closeness and strength of the sibling bond, the ages of the siblings, the appropriateness of maintaining the sibling group together, the detriment to the child if sibling ties are not maintained, the likelihood of finding a permanent home for the sibling group, whether the sibling group is currently placed together in a preadoptive home or has a concurrent plan goal of legal permanency in the same home, the wishes of each child whose age and

physical and emotional condition permits a meaningful response, and the best interest of each child in the sibling group. The court shall specify the factual basis for its finding that it is in the best interest of each child to schedule a hearing pursuant to Section 366.26 in 120 days for some or all of the members of the sibling group.

If the child was removed initially under subdivision (g) of Section 300 and the court finds by clear and convincing evidence that the whereabouts of the parent are still unknown, or the parent has failed to contact and visit the child, the court may schedule a hearing pursuant to Section 366.26 within 120 days. If the court finds by clear and convincing evidence that the parent has been convicted of a felony indicating parental unfitness, the court may schedule a hearing pursuant to Section 366.26 within 120 days.

If the child had been placed under court supervision with a previously noncustodial parent pursuant to Section 361.2, the court shall determine whether supervision is still necessary. The court may terminate supervision and transfer permanent custody to that parent, as provided for by paragraph (1) of subdivision (b) of Section 361.2.

In all other cases, the court shall direct that any reunification services previously ordered shall continue to be offered to the parent or legal guardian pursuant to the time periods set forth in subdivision (a) of Section 361.5, provided that the court may modify the terms and conditions of those services.

If the child is not returned to his or her parent or legal guardian, the court shall determine whether reasonable services that were designed to aid the parent or legal guardian in overcoming the problems that led to the initial removal and the continued custody of the child have been provided or offered to the parent or legal guardian. The court shall order that those services be initiated, continued, or terminated.

(f) The permanency hearing shall be held no later than 12 months after the date the child entered foster care, as that date is determined pursuant to subdivision (a) of Section 361.5. At the permanency hearing, the court shall determine the permanent plan for the child, which shall include a determination of whether the child will be returned to the child's home and, if so, when, within the time limits of subdivision (a) of Section 361.5. The court shall order the return of the child to the physical custody of his or her parent or legal guardian unless the court finds, by a preponderance of the evidence, that the return of the child to his or her parent or legal guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child. The social worker shall have the burden of establishing that detriment. At the permanency hearing, the court shall consider the criminal history, obtained pursuant to paragraph (1) of subdivision (f)

of Section 16504.5, of the parent or legal guardian subsequent to the child's removal, provided that he or she agreed to submit fingerprint images to obtain criminal history information as part of the case plan. The court shall also determine whether reasonable services that were designed to aid the parent or legal guardian to overcome the problems that led to the initial removal and continued custody of the child have been provided or offered to the parent or legal guardian. For each youth 16 years of age and older, the court shall also determine whether services have been made available to assist him or her in making the transition from foster care to independent living. The failure of the parent or legal guardian to participate regularly and make substantive progress in court-ordered treatment programs shall be prima facie evidence that return would be detrimental. In making its determination, the court shall review and consider the social worker's report and recommendations and the report and recommendations of any child advocate appointed pursuant to Section 356.5, shall consider the efforts or progress, or both, demonstrated by the parent or legal guardian and the extent to which he or she availed himself or herself of services provided, and shall make appropriate findings pursuant to subdivision (a) of Section 366.

Regardless of whether the child is returned to his or her parent or legal guardian, the court shall specify the factual basis for its decision. If the child is not returned to a parent or legal guardian, the court shall specify the factual basis for its conclusion that the return would be detrimental. The court also shall make a finding pursuant to subdivision (a) of Section 366.

(g) If the time period in which the court-ordered services were provided has met or exceeded the time period set forth in paragraph (1), (2), or (3) of subdivision (a) of Section 361.5, as appropriate, and a child is not returned to the custody of a parent or legal guardian at the permanency hearing held pursuant to subdivision (f), the court shall do one of the following:

(1) Continue the case for up to six months for a permanency review hearing, provided that the hearing shall occur within 18 months of the date the child was originally taken from the physical custody of his or her parent or legal guardian. The court shall continue the case only if it finds that there is a substantial probability that the child will be returned to the physical custody of his or her parent or legal guardian and safely maintained in the home within the extended period of time or that reasonable services have not been provided to the parent or legal guardian. For the purposes of this section, in order to find a substantial probability that the child will be returned to the physical custody of his or her parent or legal guardian and safely maintained in the home within

the extended period of time, the court shall be required to find all of the following:

(A) That the parent or legal guardian has consistently and regularly contacted and visited with the child.

(B) That the parent or legal guardian has made significant progress in resolving problems that led to the child's removal from the home.

(C) The parent or legal guardian has demonstrated the capacity and ability both to complete the objectives of his or her treatment plan and to provide for the child's safety, protection, physical and emotional well-being, and special needs.

For purposes of this subdivision, the court's decision to continue the case based on a finding or substantial probability that the child will be returned to the physical custody of his or her parent or legal guardian is a compelling reason for determining that a hearing held pursuant to Section 366.26 is not in the best interests of the child.

The court shall inform the parent or legal guardian that if the child cannot be returned home by the next permanency review hearing, a proceeding pursuant to Section 366.26 may be instituted. The court may not order that a hearing pursuant to Section 366.26 be held unless there is clear and convincing evidence that reasonable services have been provided or offered to the parent or legal guardian.

(2) Order that a hearing be held within 120 days, pursuant to Section 366.26, but only if the court does not continue the case to the permanency planning review hearing and there is clear and convincing evidence that reasonable services have been provided or offered to the parents or legal guardians.

(3) Order that the child remain in long-term foster care, but only if the court finds by clear and convincing evidence, based upon the evidence already presented to it, including a recommendation by the State Department of Social Services when it is acting as an adoption agency in counties that are not served by a county adoption agency or by a licensed county adoption agency, that there is a compelling reason for determining that a hearing held pursuant to Section 366.26 is not in the best interest of the child because the child is not a proper subject for adoption and has no one willing to accept legal guardianship. For purposes of this section, a recommendation by the State Department of Social Services when it is acting as an adoption agency in counties that are not served by a county adoption agency or by a licensed county adoption agency that adoption is not in the best interest of the child shall constitute a compelling reason for the court's determination. That recommendation shall be based on the present circumstances of the child and may not preclude a different recommendation at a later date if the child's circumstances change.

If the court orders that a child who is 10 years of age or older remain in long-term foster care, the court shall determine whether the agency has made reasonable efforts to maintain the child's relationships with individuals other than the child's siblings who are important to the child, consistent with the child's best interests, and may make any appropriate order to ensure that those relationships are maintained.

(h) In any case in which the court orders that a hearing pursuant to Section 366.26 shall be held, it shall also order the termination of reunification services to the parent or legal guardian. The court shall continue to permit the parent or legal guardian to visit the child pending the hearing unless it finds that visitation would be detrimental to the child. The court shall make any other appropriate orders to enable the child to maintain relationships with individuals, other than the child's siblings, who are important to the child, consistent with the child's best interests.

(i) (1) Whenever a court orders that a hearing pursuant to Section 366.26 shall be held, it shall direct the agency supervising the child and the licensed county adoption agency, or the State Department of Social Services when it is acting as an adoption agency in counties that are not served by a county adoption agency, to prepare an assessment that shall include:

(A) Current search efforts for an absent parent or parents or legal guardians.

(B) A review of the amount of and nature of any contact between the child and his or her parents or legal guardians and other members of his or her extended family since the time of placement. Although the extended family of each child shall be reviewed on a case-by-case basis, "extended family" for the purpose of this subparagraph shall include, but not be limited to, the child's siblings, grandparents, aunts, and uncles.

(C) An evaluation of the child's medical, developmental, scholastic, mental, and emotional status.

(D) A preliminary assessment of the eligibility and commitment of any identified prospective adoptive parent or legal guardian, particularly the caretaker, to include a social history including screening for criminal records and prior referrals for child abuse or neglect, the capability to meet the child's needs, and the understanding of the legal and financial rights and responsibilities of adoption and guardianship. If a proposed guardian is a relative of the minor, and the relative was assessed for foster care placement of the minor prior to January 1, 1998, the assessment shall also consider, but need not be limited to, all of the factors specified in subdivision (a) of Section 361.3.

(E) The relationship of the child to any identified prospective adoptive parent or legal guardian, the duration and character of the relationship,

the motivation for seeking adoption or guardianship, and a statement from the child concerning placement and the adoption or guardianship, unless the child's age or physical, emotional, or other condition precludes his or her meaningful response, and if so, a description of the condition.

(F) A description of efforts to be made to identify a prospective adoptive parent or legal guardian, including, but not limited to, child-specific recruitment and listing on an adoption exchange.

(G) An analysis of the likelihood that the child will be adopted if parental rights are terminated.

(2) (A) A relative caregiver's preference for legal guardianship over adoption, if it is due to circumstances that do not include an unwillingness to accept legal or financial responsibility for the child, shall not constitute the sole basis for recommending removal of the child from the relative caregiver for purposes of adoptive placement.

(B) A relative caregiver shall be given information regarding the permanency options of guardianship and adoption, including the long-term benefits and consequences of each option, prior to establishing legal guardianship or pursuing adoption.

(j) If, at any hearing held pursuant to Section 366.26, a guardianship is established for the minor with a relative, and juvenile court dependency is subsequently dismissed, the relative shall be eligible for aid under the Kin-GAP Program, as provided for in Article 4.5 (commencing with Section 11360) of Chapter 2 of Part 3 of Division 9.

(k) As used in this section, "relative" means an adult who is related to the minor by blood, adoption, or affinity within the fifth degree of kinship, including stepparents, stepsiblings, and all relatives whose status is preceded by the words "great," "great-great," or "grand," or the spouse of any of those persons even if the marriage was terminated by death or dissolution.

(*l*) For purposes of this section, evidence of any of the following circumstances may not, in and of itself, be deemed a failure to provide or offer reasonable services:

(1) The child has been placed with a foster family that is eligible to adopt a child, or has been placed in a preadoptive home.

(2) The case plan includes services to make and finalize a permanent placement for the child if efforts to reunify fail.

(3) Services to make and finalize a permanent placement for the child, if efforts to reunify fail, are provided concurrently with services to reunify the family.

(m) The implementation and operation of the amendments to subdivisions (c) and (g) enacted at the 2005–06 Regular Session shall be subject to appropriation through the budget process and by phase, as provided in Section 366.35.

SEC. 3. Section 366.22 of the Welfare and Institutions Code, as amended by Chapter 177 of the Statutes of 2007, is amended to read:

366.22. (a) When a case has been continued pursuant to paragraph (1) of subdivision (g) of Section 366.21, the permanency review hearing shall occur within 18 months after the date the child was originally removed from the physical custody of his or her parent or legal guardian. The court shall order the return of the child to the physical custody of his or her parent or legal guardian unless the court finds, by a preponderance of the evidence, that the return of the child to his or her parent or legal guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child. The social worker shall have the burden of establishing that detriment. At the permanency review hearing, the court shall consider the criminal history, obtained pursuant to paragraph (1) of subdivision (f) of Section 16504.5, of the parent or legal guardian subsequent to the child's removal, provided that he or she agreed to submit fingerprint images to obtain criminal history information as part of the case plan. The failure of the parent or legal guardian to participate regularly and make substantive progress in court-ordered treatment programs shall be prima facie evidence that return would be detrimental. In making its determination, the court shall review and consider the social worker's report and recommendations and the report and recommendations of any child advocate appointed pursuant to Section 356.5; shall consider the efforts or progress, or both, demonstrated by the parent or legal guardian and the extent to which he or she availed himself or herself of services provided; and shall make appropriate findings pursuant to subdivision (a) of Section 366.

Whether or not the child is returned to his or her parent or legal guardian, the court shall specify the factual basis for its decision. If the child is not returned to a parent or legal guardian, the court shall specify the factual basis for its conclusion that return would be detrimental.

If the child is not returned to a parent or legal guardian at the permanency review hearing, the court shall order that a hearing be held pursuant to Section 366.26 in order to determine whether adoption, guardianship, or long-term foster care is the most appropriate plan for the child. However, if the court finds by clear and convincing evidence, based on the evidence already presented to it, including a recommendation by the State Department of Social Services when it is acting as an adoption agency in counties that are not served by a county adoption agency or by a licensed county adoption agency, that there is a compelling reason, as described in paragraph (3) of subdivision (g) of Section 366.21, for determining that a hearing held under Section 366.26 is not in the best interest of the child because the child is not a proper

subject for adoption and has no one willing to accept legal guardianship, then the court may, only under these circumstances, order that the child remain in foster care. If the court orders that a child who is 10 years of age or older remain in long-term foster care, the court shall determine whether the agency has made reasonable efforts to maintain the child's relationships with individuals other than the child's siblings who are important to the child, consistent with the child's best interests, and may make any appropriate order to ensure that those relationships are maintained. The hearing shall be held no later than 120 days from the date of the permanency review hearing. The court shall also order termination of reunification services to the parent or legal guardian. The court shall continue to permit the parent or legal guardian to visit the child unless it finds that visitation would be detrimental to the child. The court shall determine whether reasonable services have been offered or provided to the parent or legal guardian. For purposes of this subdivision, evidence of any of the following circumstances shall not, in and of themselves, be deemed a failure to provide or offer reasonable services:

(1) The child has been placed with a foster family that is eligible to adopt a child, or has been placed in a preadoptive home.

(2) The case plan includes services to make and finalize a permanent placement for the child if efforts to reunify fail.

(3) Services to make and finalize a permanent placement for the child, if efforts to reunify fail, are provided concurrently with services to reunify the family.

(b) (1) Whenever a court orders that a hearing pursuant to Section 366.26 shall be held, it shall direct the agency supervising the child and the licensed county adoption agency, or the State Department of Social Services when it is acting as an adoption agency in counties that are not served by a county adoption agency, to prepare an assessment that shall include:

(A) Current search efforts for an absent parent or parents.

(B) A review of the amount of and nature of any contact between the child and his or her parents and other members of his or her extended family since the time of placement. Although the extended family of each child shall be reviewed on a case-by-case basis, "extended family" for the purposes of this subparagraph shall include, but not be limited to, the child's siblings, grandparents, aunts, and uncles.

(C) An evaluation of the child's medical, developmental, scholastic, mental, and emotional status.

(D) A preliminary assessment of the eligibility and commitment of any identified prospective adoptive parent or legal guardian, particularly the caretaker, to include a social history including screening for criminal records and prior referrals for child abuse or neglect, the capability to

meet the child's needs, and the understanding of the legal and financial rights and responsibilities of adoption and guardianship. If a proposed legal guardian is a relative of the minor, and the relative was assessed for foster care placement of the minor prior to January 1, 1998, the assessment shall also consider, but need not be limited to, all of the factors specified in subdivision (a) of Section 361.3.

(E) The relationship of the child to any identified prospective adoptive parent or legal guardian, the duration and character of the relationship, the motivation for seeking adoption or legal guardianship, and a statement from the child concerning placement and the adoption or legal guardianship, unless the child's age or physical, emotional, or other condition precludes his or her meaningful response, and if so, a description of the condition.

(F) An analysis of the likelihood that the child will be adopted if parental rights are terminated.

(2) (A) A relative caregiver's preference for legal guardianship over adoption, if it is due to circumstances that do not include an unwillingness to accept legal or financial responsibility for the child, shall not constitute the sole basis for recommending removal of the child from the relative caregiver for purposes of adoptive placement.

(B) A relative caregiver shall be given information regarding the permanency options of guardianship and adoption, including the long-term benefits and consequences of each option, prior to establishing legal guardianship or pursuing adoption.

(c) This section shall become operative January 1, 1999. If at any hearing held pursuant to Section 366.26, a legal guardianship is established for the minor with a relative, and juvenile court dependency is subsequently dismissed, the relative shall be eligible for aid under the Kin-GAP Program, as provided for in Article 4.5 (commencing with Section 11360) of Chapter 2 of Part 3 of Division 9.

(d) As used in this section, "relative" means an adult who is related to the child by blood, adoption, or affinity within the fifth degree of kinship, including stepparents, stepsiblings, and all relatives whose status is preceded by the words "great," "great-great," or "grand," or the spouse of any of those persons even if the marriage was terminated by death or dissolution.

(e) The implementation and operation of the amendments to subdivision (a) enacted at the 2005–06 Regular Session shall be subject to appropriation through the budget process and by phase, as provided in Section 366.35.

SEC. 4. Section 366.26 of the Welfare and Institutions Code is amended to read:

366.26. (a) This section applies to children who are adjudged dependent children of the juvenile court pursuant to subdivision (d) of Section 360. The procedures specified herein are the exclusive procedures for conducting these hearings; Part 2 (commencing with Section 3020) of Division 8 of the Family Code is not applicable to these proceedings. Section 8616.5 of the Family Code is applicable and available to all dependent children meeting the requirements of that section, if the postadoption contact agreement has been entered into voluntarily. For children who are adjudged dependent children of the juvenile court pursuant to subdivision (d) of Section 360, this section and Sections 8604, 8605, 8606, and 8700 of the Family Code and Chapter 5 (commencing with Section 7660) of Part 3 of Division 12 of the Family Code specify the exclusive procedures for permanently terminating parental rights with regard to, or establishing legal guardianship of, the child while the child is a dependent child of the juvenile court.

(b) At the hearing, which shall be held in juvenile court for all children who are dependents of the juvenile court, the court, in order to provide stable, permanent homes for these children, shall review the report as specified in Section 361.5, 366.21, or 366.22, shall indicate that the court has read and considered it, shall receive other evidence that the parties may present, and then shall make findings and orders in the following order of preference:

(1) Terminate the rights of the parent or parents and order that the child be placed for adoption and, upon the filing of a petition for adoption in the juvenile court, order that a hearing be set. The court shall proceed with the adoption after the appellate rights of the natural parents have been exhausted.

(2) Appoint a relative or relatives with whom the child is currently residing as legal guardian or guardians for the child, and order that letters of guardianship issue.

(3) On making a finding under paragraph (3) of subdivision (c), identify adoption as the permanent placement goal and order that efforts be made to locate an appropriate adoptive family for the child within a period not to exceed 180 days.

(4) Appoint a nonrelative legal guardian for the child and order that letters of guardianship issue.

(5) Order that the child be placed in long-term foster care, subject to the periodic review of the juvenile court under Section 366.3.

In choosing among the above alternatives the court shall proceed pursuant to subdivision (c).

(c) (1) If the court determines, based on the assessment provided as ordered under subdivision (i) of Section 366.21 or subdivision (b) of Section 366.22, and any other relevant evidence, by a clear and

convincing standard, that it is likely the child will be adopted, the court shall terminate parental rights and order the child placed for adoption. The fact that the child is not yet placed in a preadoptive home nor with a relative or foster family who is prepared to adopt the child, shall not constitute a basis for the court to conclude that it is not likely the child will be adopted. A finding under subdivision (b) or paragraph (1) of subdivision (e) of Section 361.5 that reunification services shall not be offered, under subdivision (e) of Section 366.21 that the whereabouts of a parent have been unknown for six months or that the parent has failed to visit or contact the child for six months or that the parent has been convicted of a felony indicating parental unfitness, or, under Section 366.21 or 366.22, that the court has continued to remove the child from the custody of the parent or guardian and has terminated reunification services, shall constitute a sufficient basis for termination of parental rights. Under these circumstances, the court shall terminate parental rights unless either of the following applies:

(A) The child is living with a relative who is unable or unwilling to adopt the child because of circumstances that do not include an unwillingness to accept legal or financial responsibility for the child, but who is willing and capable of providing the child with a stable and permanent environment through legal guardianship, and the removal of the child from the custody of his or her relative would be detrimental to the emotional well-being of the child. For purposes of an Indian child, "relative" shall include an "extended family member," as defined in the federal Indian Child Welfare Act (25 U.S.C. Sec. 1903(2)).

(B) The court finds a compelling reason for determining that termination would be detrimental to the child due to one or more of the following circumstances:

(i) The parents have maintained regular visitation and contact with the child and the child would benefit from continuing the relationship.

(ii) A child 12 years of age or older objects to termination of parental rights.

(iii) The child is placed in a residential treatment facility, adoption is unlikely or undesirable, and continuation of parental rights will not prevent finding the child a permanent family placement if the parents cannot resume custody when residential care is no longer needed.

(iv) The child is living with a foster parent or Indian custodian who is unable or unwilling to adopt the child because of exceptional circumstances, that do not include an unwillingness to accept legal or financial responsibility for the child, but who is willing and capable of providing the child with a stable and permanent environment and the removal of the child from the physical custody of his or her foster parent or Indian custodian would be detrimental to the emotional well-being

of the child. This clause does not apply to any child who is either (I) under six years of age or (II) a member of a sibling group where at least one child is under six years of age and the siblings are, or should be, permanently placed together.

(v) There would be substantial interference with a child's sibling relationship, taking into consideration the nature and extent of the relationship, including, but not limited to, whether the child was raised with a sibling in the same home, whether the child shared significant common experiences or has existing close and strong bonds with a sibling, and whether ongoing contact is in the child's best interest, including the child's long-term emotional interest, as compared to the benefit of legal permanence through adoption.

(vi) The child is an Indian child and there is a compelling reason for determining that termination of parental rights would not be in the best interest of the child, including, but not limited to:

(I) Termination of parental rights would substantially interfere with the child's connection to his or her tribal community or the child's tribal membership rights.

(II) The child's tribe has identified guardianship, long-term foster care with a fit and willing relative, or another planned permanent living arrangement for the child.

If the court finds that termination of parental rights would be detrimental to the child pursuant to clause (i), (ii), (iii), (iv), (v), or (vi), it shall state its reasons in writing or on the record.

(2) The court shall not terminate parental rights if:

(A) At each hearing at which the court was required to consider reasonable efforts or services, the court has found that reasonable efforts were not made or that reasonable services were not offered or provided.

(B) In the case of an Indian child:

(i) At the hearing terminating parental rights, the court has found that active efforts were not made as required in Section 361.7.

(ii) The court does not make a determination at the hearing terminating parental rights, supported by evidence beyond a reasonable doubt, including testimony of one or more "qualified expert witnesses" as defined in Section 224.6, that the continued custody of the child by the parent is likely to result in serious emotional or physical damage to the child.

(3) If the court finds that termination of parental rights would not be detrimental to the child pursuant to paragraph (1) and that the child has a probability for adoption but is difficult to place for adoption and there is no identified or available prospective adoptive parent, the court may identify adoption as the permanent placement goal and without terminating parental rights, order that efforts be made to locate an

appropriate adoptive family for the child within a period not to exceed 180 days. During this 180-day period, the public agency responsible for seeking adoptive parents for each child shall, to the extent possible, ask each child who is 10 years of age or older, to identify any individuals, other than the child's siblings, who are important to the child, in order to identify potential adoptive parents. The public agency may ask any other child to provide that information, as appropriate. During the 180-day period, the public agency shall, to the extent possible, contact other private and public adoption agencies regarding the availability of the child for adoption. During the 180-day period, the public agency shall conduct the search for adoptive parents in the same manner as prescribed for children in Sections 8708 and 8709 of the Family Code. At the expiration of this period, another hearing shall be held and the court shall proceed pursuant to paragraph (1) or (4) of subdivision (b). For purposes of this section, a child may only be found to be difficult to place for adoption if there is no identified or available prospective adoptive parent for the child because of the child's membership in a sibling group, or the presence of a diagnosed medical, physical, or mental handicap, or the child is the age of seven years or more.

(4) (A) If the court finds that adoption of the child or termination of parental rights is not in the best interest of the child, because one of the conditions in clause (i), (ii), (iii), (iv), (v), or (vi) of subparagraph (B) of paragraph (1) or in paragraph (2) applies, the court shall either order that the present caretakers or other appropriate persons shall become legal guardians of the child or order that the child remain in long-term foster care. Legal guardianship shall be considered before long-term foster care, if it is in the best interests of the child and if a suitable guardian can be found. A child who is 10 years of age or older, shall be asked to identify any individuals, other than the child's siblings, who are important to the child, in order to identify potential guardians. The agency may ask any other child to provide that information, as appropriate.

(B) If the child is living with a relative or a foster parent who is willing and capable of providing a stable and permanent environment, but not willing to become a legal guardian, the child shall not be removed from the home if the court finds the removal would be seriously detrimental to the emotional well-being of the child because the child has substantial psychological ties to the relative caretaker or foster parents.

(C) The court shall also make an order for visitation with the parents or guardians unless the court finds by a preponderance of the evidence that the visitation would be detrimental to the physical or emotional well-being of the child.

(5) If the court finds that the child should not be placed for adoption, that legal guardianship shall not be established, and that there are no suitable foster parents except exclusive-use homes available to provide the child with a stable and permanent environment, the court may order the care, custody, and control of the child transferred from the county welfare department to a licensed foster family agency. The court shall consider the written recommendation of the county welfare director regarding the suitability of the transfer. The transfer shall be subject to further court orders.

The licensed foster family agency shall place the child in a suitable licensed or exclusive-use home that has been certified by the agency as meeting licensing standards. The licensed foster family agency shall be responsible for supporting the child and providing appropriate services to the child, including those services ordered by the court. Responsibility for the support of the child shall not, in and of itself, create liability on the part of the foster family agency to third persons injured by the child. Those children whose care, custody, and control are transferred to a foster family agency shall not be eligible for foster care maintenance payments or child welfare services, except for emergency response services pursuant to Section 16504.

(d) The proceeding for the appointment of a guardian for a child who is a dependent of the juvenile court shall be in the juvenile court. If the court finds pursuant to this section that legal guardianship is the appropriate permanent plan, it shall appoint the legal guardian and issue letters of guardianship. The assessment prepared pursuant to subdivision (g) of Section 361.5, subdivision (i) of Section 366.21, and subdivision (b) of Section 366.22 shall be read and considered by the court prior to the appointment, and this shall be reflected in the minutes of the court. The person preparing the assessment may be called and examined by any party to the proceeding.

(e) The proceeding for the adoption of a child who is a dependent of the juvenile court shall be in the juvenile court if the court finds pursuant to this section that adoption is the appropriate permanent plan and the petition for adoption is filed in the juvenile court. Upon the filing of a petition for adoption, the juvenile court shall order that an adoption hearing be set. The court shall proceed with the adoption after the appellate rights of the natural parents have been exhausted. The full report required by Section 8715 of the Family Code shall be read and considered by the court prior to the adoption and this shall be reflected in the minutes of the court. The person preparing the report may be called and examined by any party to the proceeding. It is the intent of the Legislature, pursuant to this subdivision, to give potential adoptive parents the option of filing in the juvenile court the petition for the

adoption of a child who is a dependent of the juvenile court. Nothing in this section is intended to prevent the filing of a petition for adoption in any other court as permitted by law, instead of in the juvenile court.

(f) At the beginning of any proceeding pursuant to this section, if the child or the parents are not being represented by previously retained or appointed counsel, the court shall proceed as follows:

(1) In accordance with subdivision (c) of Section 317, if a child before the court is without counsel, the court shall appoint counsel unless the court finds that the child would not benefit from the appointment of counsel. The court shall state on the record its reasons for that finding.

(2) If a parent appears without counsel and is unable to afford counsel, the court shall appoint counsel for the parent, unless this representation is knowingly and intelligently waived. The same counsel shall not be appointed to represent both the child and his or her parent. The public defender or private counsel may be appointed as counsel for the parent.

(3) Private counsel appointed under this section shall receive a reasonable sum for compensation and expenses, the amount of which shall be determined by the court. The amount shall be paid by the real parties in interest, other than the child, in any proportions the court deems just. However, if the court finds that any of the real parties in interest are unable to afford counsel, the amount shall be paid out of the general fund of the county.

(g) The court may continue the proceeding for a period of time not to exceed 30 days as necessary to appoint counsel, and to enable counsel to become acquainted with the case.

(h) (1) At all proceedings under this section, the court shall consider the wishes of the child and shall act in the best interests of the child.

(2) In accordance with Section 349, the child shall be present in court if the child or the child's counsel so requests or the court so orders. If the child is 10 years of age or older and is not present at a hearing held pursuant to this section, the court shall determine whether the minor was properly notified of his or her right to attend the hearing and inquire as to the reason why the child is not present.

(3) (A) The testimony of the child may be taken in chambers and outside the presence of the child's parent or parents, if the child's parent or parents are represented by counsel, the counsel is present, and any of the following circumstances exists:

(i) The court determines that testimony in chambers is necessary to ensure truthful testimony.

(ii) The child is likely to be intimidated by a formal courtroom setting.

(iii) The child is afraid to testify in front of his or her parent or parents.

(B) After testimony in chambers, the parent or parents of the child may elect to have the court reporter read back the testimony or have the testimony summarized by counsel for the parent or parents.

(C) The testimony of a child also may be taken in chambers and outside the presence of the guardian or guardians of a child under the circumstances specified in this subdivision.

(i) (1) Any order of the court permanently terminating parental rights under this section shall be conclusive and binding upon the child, upon the parent or parents and upon all other persons who have been served with citation by publication or otherwise as provided in this chapter. After making the order, the juvenile court shall have no power to set aside, change, or modify it, except as provided in paragraph (2), but nothing in this section shall be construed to limit the right to appeal the order.

(2) A child who has not been adopted after the passage of at least three years from the date the court terminated parental rights and for whom the court has determined that adoption is no longer the permanent plan may petition the juvenile court to reinstate parental rights pursuant to the procedure prescribed by Section 388. The child may file the petition prior to the expiration of this three-year period if the State Department of Social Services or licensed adoption agency that is responsible for custody and supervision of the child as described in subdivision (j) and the child stipulate that the child is no longer likely to be adopted. A child over 12 years of age shall sign the petition in the absence of a showing of good cause as to why the child could not do so. If it appears that the best interests of the child may be promoted by reinstatement of parental rights, the court shall order that a hearing be held and shall give prior notice, or cause prior notice to be given, to the social worker or probation officer and to the child's attorney of record, or, if there is no attorney of record for the child, to the child, and the child's tribe, if applicable, by means prescribed by subdivision (c) of Section 297. The court shall order the child or the social worker or probation officer to give prior notice of the hearing to the child's former parent or parents whose parental rights were terminated in the manner prescribed by subdivision (f) of Section 294 where the recommendation is adoption. The juvenile court shall grant the petition if it finds by clear and convincing evidence that the child is no longer likely to be adopted and that reinstatement of parental rights is in the child's best interest. If the court reinstates parental rights over a child who is under 12 years of age and for whom the new permanent plan will not be reunification with a parent or legal guardian, the court shall specify the factual basis for its findings that it is in the best interest of the child to reinstate parental rights. This subdivision is intended to be retroactive and applies to any

child who is under the jurisdiction of the juvenile court at the time of the hearing regardless of the date parental rights were terminated.

(j) If the court, by order or judgment, declares the child free from the custody and control of both parents, or one parent if the other does not have custody and control, the court shall at the same time order the child referred to the State Department of Social Services or a licensed adoption agency for adoptive placement by the agency. However, a petition for adoption may not be granted until the appellate rights of the natural parents have been exhausted. The State Department of Social Services or licensed adoption agency shall be responsible for the custody and supervision of the child and shall be entitled to the exclusive care and control of the child at all times until a petition for adoption is granted, except as specified in subdivision (n). With the consent of the agency, the court may appoint a guardian of the child, who shall serve until the child is adopted.

(k) Notwithstanding any other provision of law, the application of any person who, as a relative caretaker or foster parent, has cared for a dependent child for whom the court has approved a permanent plan for adoption, or who has been freed for adoption, shall be given preference with respect to that child over all other applications for adoptive placement if the agency making the placement determines that the child has substantial emotional ties to the relative caretaker or foster parent and removal from the relative caretaker or foster parent would be seriously detrimental to the child's emotional well-being.

As used in this subdivision, "preference" means that the application shall be processed and, if satisfactory, the family study shall be completed before the processing of the application of any other person for the adoptive placement of the child.

(*l*) (1) An order by the court that a hearing pursuant to this section be held is not appealable at any time unless all of the following apply:

(A) A petition for extraordinary writ review was filed in a timely manner.

(B) The petition substantively addressed the specific issues to be challenged and supported that challenge by an adequate record.

(C) The petition for extraordinary writ review was summarily denied or otherwise not decided on the merits.

(2) Failure to file a petition for extraordinary writ review within the period specified by rule, to substantively address the specific issues challenged, or to support that challenge by an adequate record shall preclude subsequent review by appeal of the findings and orders made pursuant to this section.

(3) The Judicial Council shall adopt rules of court, effective January 1, 1995, to ensure all of the following:

(A) A trial court, after issuance of an order directing a hearing pursuant to this section be held, shall advise all parties of the requirement of filing a petition for extraordinary writ review as set forth in this subdivision in order to preserve any right to appeal in these issues. This notice shall be made orally to a party if the party is present at the time of the making of the order or by first-class mail by the clerk of the court to the last known address of a party not present at the time of the making of the order.

(B) The prompt transmittal of the records from the trial court to the appellate court.

(C) That adequate time requirements for counsel and court personnel exist to implement the objective of this subdivision.

(D) That the parent or guardian, or their trial counsel or other counsel, is charged with the responsibility of filing a petition for extraordinary writ relief pursuant to this subdivision.

(4) The intent of this subdivision is to do both of the following:

(A) Make every reasonable attempt to achieve a substantive and meritorious review by the appellate court within the time specified in Sections 366.21 and 366.22 for holding a hearing pursuant to this section.

(B) Encourage the appellate court to determine all writ petitions filed pursuant to this subdivision on their merits.

(5) This subdivision shall only apply to cases in which an order to set a hearing pursuant to this section is issued on or after January 1, 1995.

(m) Except for subdivision (j), this section shall also apply to minors adjudged wards pursuant to Section 727.31.

(n) (1) Notwithstanding Section 8704 of the Family Code or any other provision of law, the court, at a hearing held pursuant to this section or anytime thereafter, may designate a current caretaker as a prospective adoptive parent if the child has lived with the caretaker for at least six months, the caretaker currently expresses a commitment to adopt the child, and the caretaker has taken at least one step to facilitate the adoption process. In determining whether to make that designation, the court may take into consideration whether the caretaker is listed in the preliminary assessment prepared by the county department in accordance with subdivision (i) of Section 366.21 as an appropriate person to be considered as an adoptive parent for the child and the recommendation of the State Department of Social Services or licensed adoption agency.

(2) For purposes of this subdivision, steps to facilitate the adoption process include, but are not limited to, the following:

(A) Applying for an adoption home study.

(B) Cooperating with an adoption home study.

(C) Being designated by the court or the licensed adoption agency as the adoptive family.

(D) Requesting de facto parent status.

(E) Signing an adoptive placement agreement.

(F) Engaging in discussions regarding a postadoption contact agreement.

(G) Working to overcome any impediments that have been identified by the State Department of Social Services and the licensed adoption agency.

(H) Attending classes required of prospective adoptive parents.

(3) Prior to a change in placement and as soon as possible after a decision is made to remove a child from the home of a designated prospective adoptive parent, the agency shall notify the court, the designated prospective adoptive parent or the current caretaker, if that caretaker would have met the threshold criteria to be designated as a prospective adoptive parent pursuant to paragraph (1) on the date of service of this notice, the child's attorney, and the child, if the child is 10 years of age or older, of the proposal in the manner described in Section 16010.6.

(A) Within five court days or seven calendar days, whichever is longer, of the date of notification, the child, the child's attorney, or the designated prospective adoptive parent may file a petition with the court objecting to the proposal to remove the child, or the court, upon its own motion, may set a hearing regarding the proposal. The court may, for good cause, extend the filing period. A caretaker who would have met the threshold criteria to be designated as a prospective adoptive parent pursuant to paragraph (1) on the date of service of the notice of proposed removal of the child may file, together with the petition under this subparagraph, a petition for an order designating the caretaker as a prospective adoptive parent for purposes of this subdivision.

(B) A hearing ordered pursuant to this paragraph shall be held as soon as possible and not later than five court days after the petition is filed with the court or the court sets a hearing upon its own motion, unless the court for good cause is unable to set the matter for hearing five court days after the petition is filed, in which case the court shall set the matter for hearing as soon as possible. At the hearing, the court shall determine whether the caretaker has met the threshold criteria to be designated as a prospective adoptive parent pursuant to paragraph (1), and whether the proposed removal of the child from the home of the designated prospective adoptive parent is in the child's best interest, and the child may not be removed from the home of the designated prospective adoptive parent unless the court finds that removal is in the child's best interest. If the court determines that the caretaker did not meet the threshold criteria to be designated as a prospective adoptive parent on the date of service of the notice of proposed removal of the child, the

petition objecting to the proposed removal filed by the caretaker shall be dismissed. If the caretaker was designated as a prospective adoptive parent prior to this hearing, the court shall inquire into any progress made by the caretaker towards the adoption of the child since the caretaker was designated as a prospective adoptive parent.

(C) A determination by the court that the caretaker is a designated prospective adoptive parent pursuant to paragraph (1) or subparagraph (B) does not make the caretaker a party to the dependency proceeding nor does it confer on the caretaker any standing to object to any other action of the department or licensed adoption agency, unless the caretaker has been declared a de facto parent by the court prior to the notice of removal served pursuant to paragraph (3).

(D) If a petition objecting to the proposal to remove the child is not filed, and the court, upon its own motion, does not set a hearing, the child may be removed from the home of the designated prospective adoptive parent without a hearing.

(4) Notwithstanding paragraph (3), if the State Department of Social Services or a licensed adoption agency determines that the child must be removed from the home of the caretaker who is or may be a designated prospective adoptive parent immediately, due to a risk of physical or emotional harm, the agency may remove the child from that home and is not required to provide notice prior to the removal. However, as soon as possible and not longer than two court days after the removal, the agency shall notify the court, the caretaker who is or may be a designated prospective adoptive parent, the child's attorney, and the child, if the child is 10 years of age or older, of the removal. Within five court days or seven calendar days, whichever is longer, of the date of notification of the removal, the child, the child's attorney, or the caretaker who is or may be a designated prospective adoptive parent may petition for, or the court on its own motion may set, a noticed hearing pursuant to paragraph (3). The court may, for good cause, extend the filing period.

(5) Except as provided in subdivision (b) of Section 366.28, an order by the court issued after a hearing pursuant to this subdivision shall not be appealable.

(6) Nothing in this section shall preclude a county child protective services agency from fully investigating and responding to alleged abuse or neglect of a child pursuant to Section 11165.5 of the Penal Code.

(7) The Judicial Council shall prepare forms to facilitate the filing of the petitions described in this subdivision, which shall become effective on January 1, 2006.

(o) The implementation and operation of the amendments to paragraph (3) of subdivision (c) and subparagraph (A) of paragraph (4) of subdivision (c) enacted at the 2005–06 Regular Session shall be subject

to appropriation through the budget process and by phase, as provided in Section 366.35.

SEC. 5. Section 366.3 of the Welfare and Institutions Code is amended to read:

366.3. (a) If a juvenile court orders a permanent plan of adoption or legal guardianship pursuant to Section 360 or 366.26, the court shall retain jurisdiction over the child until the child is adopted or the legal guardianship is established, except as provided for in Section 366.29. The status of the child shall be reviewed every six months to ensure that the adoption or legal guardianship is completed as expeditiously as possible. When the adoption of the child has been granted, the court shall terminate its jurisdiction over the child. Following establishment of a legal guardianship, the court may continue jurisdiction over the child as a dependent child of the juvenile court or may terminate its dependency jurisdiction and retain jurisdiction over the child as a ward of the legal guardianship, as authorized by Section 366.4. If, however, a relative of the child is appointed the legal guardian of the child and the child has been placed with the relative for at least 12 months, the court shall, except if the relative guardian objects, or upon a finding of exceptional circumstances, terminate its dependency jurisdiction and retain jurisdiction over the child as a ward of the guardianship, as authorized by Section 366.4. Following a termination of parental rights, the parent or parents shall not be a party to, or receive notice of, any subsequent proceedings regarding the child.

(b) If the court has dismissed dependency jurisdiction following the establishment of a legal guardianship, or no dependency jurisdiction attached because of the granting of a legal guardianship pursuant to Section 360, and the legal guardianship is subsequently revoked or otherwise terminated, the county department of social services or welfare department shall notify the juvenile court of this fact. The court may vacate its previous order dismissing dependency jurisdiction over the child.

Notwithstanding Section 1601 of the Probate Code, the proceedings to terminate a legal guardianship that has been granted pursuant to Section 360 or 366.26 shall be held in the juvenile court, unless the termination is due to the emancipation or adoption of the child. Prior to the hearing on a petition to terminate legal guardianship pursuant to this subdivision, the court shall order the county department of social services or welfare department to prepare a report, for the court's consideration, that shall include an evaluation of whether the child could safely remain in, or be returned to, the legal guardian's home, without terminating the legal guardianship, if services were provided to the child or legal guardian. If applicable, the report shall also identify recommended family

maintenance or reunification services to maintain the legal guardianship and set forth a plan for providing those services. If the petition to terminate legal guardianship is granted, the juvenile court may resume dependency jurisdiction over the child, and may order the county department of social services or welfare department to develop a new permanent plan, which shall be presented to the court within 60 days of the termination. If no dependency jurisdiction has attached, the social worker shall make any investigation he or she deems necessary to determine whether the child may be within the jurisdiction of the juvenile court, as provided in Section 328.

Unless the parental rights of the child's parent or parents have been terminated, they shall be notified that the legal guardianship has been revoked or terminated and shall be entitled to participate in the new permanency planning hearing. The court shall try to place the child in another permanent placement. At the hearing, the parents may be considered as custodians but the child shall not be returned to the parent or parents unless they prove, by a preponderance of the evidence, that reunification is the best alternative for the child. The court may, if it is in the best interests of the child, order that reunification services again be provided to the parent or parents.

(c) If, following the establishment of a legal guardianship, the county welfare department becomes aware of changed circumstances that indicate adoption may be an appropriate plan for the child, the department shall so notify the court. The court may vacate its previous order dismissing dependency jurisdiction over the child and order that a hearing be held pursuant to Section 366.26 to determine whether adoption or continued legal guardianship is the most appropriate plan for the child. The hearing shall be held no later than 120 days from the date of the order. If the court orders that a hearing shall be held pursuant to Section 366.26, the court shall direct the agency supervising the child and the licensed county adoption agency, or the State Department of Social Services if it is acting as an adoption agency in counties that are not served by a county adoption agency, to prepare an assessment under subdivision (b) of Section 366.22.

(d) If the child is in a placement other than the home of a legal guardian and jurisdiction has not been dismissed, the status of the child shall be reviewed at least every six months. The review of the status of a child for whom the court has ordered parental rights terminated and who has been ordered placed for adoption shall be conducted by the court. The review of the status of a child for whom the court has not ordered parental rights terminated and who has not been ordered placed for adoption may be conducted by the court or an appropriate local

agency. The court shall conduct the review under the following circumstances:

(1) Upon the request of the child's parents or legal guardians.

(2) Upon the request of the child.

(3) It has been 12 months since a hearing held pursuant to Section 366.26 or an order that the child remain in long-term foster care pursuant to Section 366.21, 366.22, 366.26, or subdivision (g).

(4) It has been 12 months since a review was conducted by the court.

The court shall determine whether or not reasonable efforts to make and finalize a permanent placement for the child have been made.

(e) Except as provided in subdivision (f), at the review held every six months pursuant to subdivision (d), the reviewing body shall inquire about the progress being made to provide a permanent home for the child, shall consider the safety of the child, and shall determine all of the following:

(1) The continuing necessity for, and appropriateness of, the placement.

(2) Identification of individuals other than the child's siblings who are important to a child who is 10 years of age or older and has been in out-of-home placement for six months or longer, and actions necessary to maintain the child's relationship with those individuals, provided that those relationships are in the best interest of the child. The social worker shall ask every child who is 10 years of age or older and who has been in out-of-home placement for six months or longer to identify individuals other than the child's siblings who are important to the child, and may ask any other child to provide that information, as appropriate. The social worker shall make efforts to identify other individuals who are important to the child, consistent with the child's best interests.

(3) The continuing appropriateness and extent of compliance with the permanent plan for the child, including efforts to maintain relationships between a child who is 10 years of age or older and who has been in out-of-home placement for six months or longer and individuals who are important to the child and efforts to identify a prospective adoptive parent or legal guardian, including, but not limited to, child-specific recruitment efforts and listing on an adoption exchange.

(4) The extent of the agency's compliance with the child welfare services case plan in making reasonable efforts to return the child to a safe home and to complete whatever steps are necessary to finalize the permanent placement of the child.

(5) Whether there should be any limitation on the right of the parent or guardian to make educational decisions for the child. That limitation shall be specifically addressed in the court order and may not exceed what is necessary to protect the child. If the court specifically limits the

right of the parent or guardian to make educational decisions for the child, the court shall at the same time appoint a responsible adult to make educational decisions for the child pursuant to Section 361.

(6) The adequacy of services provided to the child. The court shall consider the progress in providing the information and documents to the child, as described in Section 391. The court shall also consider the need for, and progress in providing, the assistance and services described in paragraphs (3) and (4) of subdivision (b) of Section 391.

(7) The extent of progress the parents or legal guardians have made toward alleviating or mitigating the causes necessitating placement in foster care.

(8) The likely date by which the child may be returned to, and safely maintained in, the home, placed for adoption, legal guardianship, or in another planned permanent living arrangement.

(9) Whether the child has any siblings under the court's jurisdiction, and, if any siblings exist, all of the following:

(A) The nature of the relationship between the child and his or her siblings.

(B) The appropriateness of developing or maintaining the sibling relationships pursuant to Section 16002.

(C) If the siblings are not placed together in the same home, why the siblings are not placed together and what efforts are being made to place the siblings together, or why those efforts are not appropriate.

(D) If the siblings are not placed together, the frequency and nature of the visits between siblings.

(E) The impact of the sibling relationships on the child's placement and planning for legal permanence.

The factors the court may consider as indicators of the nature of the child's sibling relationships include, but are not limited to, whether the siblings were raised together in the same home, whether the siblings have shared significant common experiences or have existing close and strong bonds, whether either sibling expresses a desire to visit or live with his or her sibling, as applicable, and whether ongoing contact is in the child's best emotional interests.

(10) For a child who is 16 years of age or older, the services needed to assist the child to make the transition from foster care to independent living.

The reviewing body shall determine whether or not reasonable efforts to make and finalize a permanent placement for the child have been made.

Each licensed foster family agency shall submit reports for each child in its care, custody, and control to the court concerning the continuing appropriateness and extent of compliance with the child's permanent

plan, the extent of compliance with the case plan, and the type and adequacy of services provided to the child.

Unless their parental rights have been permanently terminated, the parent or parents of the child are entitled to receive notice of, and participate in, those hearings. It shall be presumed that continued care is in the best interests of the child, unless the parent or parents prove, by a preponderance of the evidence, that further efforts at reunification are the best alternative for the child. In those cases, the court may order that further reunification services to return the child to a safe home environment be provided to the parent or parents for a period not to exceed six months.

(f) At the review conducted by the court and held at least every six months, regarding a child for whom the court has ordered parental rights terminated and who has been ordered placed for adoption, the county welfare department shall prepare and present to the court a report describing the following:

(1) The child's present placement.

(2) The child's current physical, mental, emotional, and educational status.

(3) If the child has not been placed with a prospective adoptive parent or guardian, identification of individuals, other than the child's siblings, who are important to the child and actions necessary to maintain the child's relationship with those individuals, provided that those relationships are in the best interest of the child. The agency shall ask every child who is 10 years of age or older to identify any individuals who are important to him or her, consistent with the child's best interest, and may ask any child who is younger than 10 years of age to provide that information as appropriate. The agency shall make efforts to identify other individuals who are important to the child.

(4) Whether the child has been placed with a prospective adoptive parent or parents.

(5) Whether an adoptive placement agreement has been signed and filed.

(6) If the child has not been placed with a prospective adoptive parent or parents, the efforts made to identify an appropriate prospective adoptive parent or legal guardian, including, but not limited to, child-specific recruitment efforts and listing on an adoption exchange.

(7) Whether the final adoption order should include provisions for postadoptive sibling contact pursuant to Section 366.29.

(8) The progress of the search for an adoptive placement if one has not been identified.

(9) Any impediments to the adoption or the adoptive placement.

(10) The anticipated date by which the child will be adopted or placed in an adoptive home.

(11) The anticipated date by which an adoptive placement agreement will be signed.

(12) Recommendations for court orders that will assist in the placement of the child for adoption or in the finalization of the adoption.

The court shall determine whether or not reasonable efforts to make and finalize a permanent placement for the child have been made.

The court shall make appropriate orders to protect the stability of the child and to facilitate and expedite the permanent placement and adoption of the child.

(g) At the review held pursuant to subdivision (d) for a child in long-term foster care, the court shall consider all permanency planning options for the child including whether the child should be returned to the home of the parent, placed for adoption, or appointed a legal guardian, or, if compelling reasons exist for finding that none of the foregoing options are in the best interest of the child, whether the child should be placed in another planned permanent living arrangement. The court shall order that a hearing be held pursuant to Section 366.26, unless it determines by clear and convincing evidence that there is a compelling reason for determining that a hearing held pursuant to Section 366.26 is not in the best interest of the child because the child is being returned to the home of the parent, the child is not a proper subject for adoption, or no one is willing to accept legal guardianship. If the licensed county adoption agency, or the department when it is acting as an adoption agency in counties that are not served by a county adoption agency, has determined it is unlikely that the child will be adopted or one of the conditions described in paragraph (1) of subdivision (c) of Section 366.26 applies, that fact shall constitute a compelling reason for purposes of this subdivision. Only upon that determination may the court order that the child remain in foster care, without holding a hearing pursuant to Section 366.26.

(h) If, as authorized by subdivision (g), the court orders a hearing pursuant to Section 366.26, the court shall direct the agency supervising the child and the licensed county adoption agency, or the State Department of Social Services when it is acting as an adoption agency in counties that are not served by a county adoption agency, to prepare an assessment as provided for in subdivision (i) of Section 366.21 or subdivision (b) of Section 366.22. A hearing held pursuant to Section 366.26 shall be held no later than 120 days from the date of the 12-month review at which it is ordered, and at that hearing the court shall determine whether adoption, legal guardianship, or long-term foster care is the most appropriate plan for the child.

(i) The implementation and operation of the amendments to subdivision (e) enacted at the 2005–06 Regular Session shall be subject to appropriation through the budget process and by phase, as provided in Section 366.35.

(j) The reviews conducted pursuant to subdivision (a) or (d) may be conducted earlier than every six months if the court determines that an earlier review is in the best interests of the child or as court rules prescribe.

SEC. 6. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

CHAPTER 566

An act to add Article 5.5 (commencing with Section 234) to Chapter 2 of Part 1 of Division 1 of Title 1 of the Education Code, relating to discrimination.

[Approved by Governor October 12, 2007. Filed with Secretary of State October 12, 2007.]

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) All pupils in public primary, elementary, middle, junior high, and senior high schools have the inalienable right to attend school at school campuses that are safe, secure, and peaceful.

(b) Pursuant to subdivision (b) of Section 201 of the Education Code, public schools in California have an affirmative obligation to combat racism, sexism, and other forms of bias, and a responsibility to provide equal educational opportunity.

(c) The California Student Safety and Violence Prevention Act of 2000 reaffirmed the right of all pupils to a safe school environment by prohibiting a person from being subjected to discrimination on the basis of sex, ethnic group identification, race, national origin, religion, color, mental or physical disability, or an actual or perceived characteristic that is contained in the definition of hate crimes set forth in Section 422.55 of the Penal Code in a program or activity conducted by an educational institution that receives, or benefits from, state financial assistance or enrolls pupils who receive state student financial aid.

(d) Hate-motivated incidents jeopardize the safety and well-being of all pupils because they target not only the individual victim, but everyone who shares the identity that motivated the particular incident. Unfortunately, there have been increasing reports of hate-motivated incidents and crimes in California schools.

(e) (1) Numerous studies point to an ongoing problem of discrimination, harassment, and violence in schools that has severe consequences for pupils. For example, the 2004–06 California Healthy Kids Survey results found that between 27 to 30 percent of California middle and high school pupils reported experiencing bias-related harassment at school related to their race, ethnicity, gender, religion, sexual orientation, or disability.

(2) Many school districts are not effectively addressing discrimination and harassment on campus. Less than half of grade 9 pupils express feeling safe at school, while 46 percent of pupils said their schools were not safe for lesbian, gay, bisexual, and transgender (LGBT) pupils.

(3) Many teachers have not received training to prevent or respond to illegal discrimination and harassment. A majority of school districts do not require training on how to address discrimination and harassment based on sexual orientation for their elementary, middle, or high school teachers.

(4) Many pupils and parents are unaware of nondiscrimination policies, with 23 percent of pupils and 29 percent of parents not being informed of the policies.

(f) In a public hearing conducted on October 3, 2002, by the California Senate Select Committee on School Safety, pupils, teachers, parents, researchers, and advocates from all over the state testified about incidents of ongoing discrimination and harassment and an inadequate response from school authorities.

(g) Bias-related discrimination and harassment have negative consequences for pupil health, well-being, and academic success. For example, the Safe Place to Learn report issued by the California Safe Schools Coalition and the 4-H Center for Youth Development at the Davis campus of the University of California found that pupils who are harassed based on actual or perceived sexual orientation are at least three times more likely to carry a weapon to school, to seriously consider suicide, to make a plan for attempting suicide, or to miss at least one day of school per 30 schooldays because they do not feel safe. In addition, a survey of San Francisco Asian American youth found that 36 percent cited racial tension as the primary cause for fights on campus.

(h) A number of school districts have paid hundreds of thousands of dollars in damages to settle lawsuits by pupils claiming their schools failed to protect them from harassment, intimidation, and violence,

including a June 2005 jury award of three hundred thousand dollars ($300,000) in San Diego to two former high school pupils for the harassment they received at school based on their actual or perceived sexual orientation and a January 2007 settlement of forty-five thousand dollars ($45,000) in a Contra Costa County lawsuit alleging that school officials failed to protect a pupil from repeated attacks motivated by racial and ethnic prejudice.

SEC. 2. Article 5.5 (commencing with Section 234) is added to Chapter 2 of Part 1 of Division 1 of Title 1 of the Education Code, to read:

Article 5.5. Safe Place to Learn Act

234. (a) This article shall be known and may be cited as the Safe Place to Learn Act.

(b) It is the policy of the State of California to ensure that all local educational agencies continue to work to reduce discrimination, harassment, and violence. It is further the policy of the state to improve pupil safety at schools and the connections between pupils and supportive adults, schools, and communities.

234.1. The department, pursuant to subdivision (b) of Section 64001, shall monitor adherence to the requirements of Chapter 5.3 (commencing with Section 4900) of Division 1 of Title 5 of the California Code of Regulations and Chapter 2 (commencing with Section 200) as part of its regular monitoring and review of local educational agencies, commonly known as the Categorical Program Monitoring process. The department shall assess whether local educational agencies have done all of the following:

(a) Adopted a policy that prohibits discrimination and harassment based on the characteristics set forth in Section 422.55 of the Penal Code and Section 220.

(b) Adopted a process for receiving and investigating complaints of discrimination and harassment based on the characteristics set forth in Section 422.55 of the Penal Code and Section 220.

(c) Publicized antidiscrimination and antiharassment policies, including information about the manner in which to file a complaint, to pupils, parents, employees, agents of the governing board, and the general public. The information shall be translated pursuant to Section 48985.

(d) Posted antidiscrimination and antiharassment policies in all schools and offices, including staff lounges and pupil government meeting rooms.

(e) Maintained documentation of complaints and their resolution for a minimum of one review cycle.

(f) Ensured that complainants are protected from retaliation and that the identity of a complainant alleging discrimination or harassment remains confidential, as appropriate.

(g) Identified a responsible local educational agency officer for ensuring district or office compliance with the requirements of Chapter 5.3 (commencing with Section 4900) of Division 1 of Title 5 of the California Code of Regulations and Chapter 2 (commencing with Section 200).

234.2. The department shall display information on curricula and other resources that specifically address bias-related discrimination and harassment based on the characteristics set forth in Section 422.55 of the Penal Code and Section 220 on the California Healthy Kids Resource Center Internet Web site and other appropriate department Internet Web sites where information about discrimination and harassment is posted.

234.3. The department shall develop a model handout describing the rights and obligations set forth in Sections 200, 201, and 220 and the policies addressing bias-related discrimination and harassment in schools. This model handout shall be posted on appropriate department Internet Web sites.

CHAPTER 567

An act to amend Section 1279.6 of the Code of Civil Procedure, to amend Sections 298, 298.5, 355, and 358 of, and to add Sections 298.6 and 306.5 to, the Family Code, and to amend Sections 103175 and 103180 of the Health and Safety Code, relating to name changes.

[Approved by Governor October 12, 2007. Filed with Secretary of State October 12, 2007.]

The people of the State of California do enact as follows:

SECTION 1. This act shall be known and may be cited as the Name Equality Act of 2007.

SEC. 2. (a) The Legislature finds and declares that the choice to adopt or not adopt a new name upon marriage or registration of domestic partnership is a profoundly personal reflection of one's individuality, equality, family, community, and beliefs.

(b) The Legislature, in enacting this act, intends to do both of the following:

(1) Ensure that all men and women who marry are treated equally with regard to the option of changing or not changing their names upon

marriage, including, without limitation, changing their names on the forms for marriage licenses and certificates.

(2) Ensure that each party entering into a registered domestic partnership has an opportunity through the Declaration of Domestic Partnership to indicate his or her choice as to whether or not to change his or her name upon registration of domestic partnership and to ensure that domestic partners are treated the same as spouses with regard to that choice.

(3) Clarify the option under existing law to adopt or not adopt a new name upon marriage or registration of domestic partnership without being required to file an application for a change of name with a superior court pursuant to Title 8 (commencing with Section 1275) of Part 3 of the Code of Civil Procedure.

SEC. 3. Section 1279.6 of the Code of Civil Procedure is amended to read:

1279.6. No person engaged in a trade or business of any kind or in the provision of a service of any kind shall do any of the following:

(a) Refuse to do business with a person, or refuse to provide the service to a person, regardless of the person's marital status, because he or she has chosen to use or regularly uses his or her birth name, former name, or name adopted upon solemnization of marriage or registration of domestic partnership.

(b) Impose, as a condition of doing business with a person, or as a condition of providing the service to a person, a requirement that the person, regardless of his or her marital status, use a name other than his or her birth name, former name, or name adopted upon solemnization of marriage or registration of domestic partnership, if the person has chosen to use or regularly uses that name.

SEC. 4. Section 298 of the Family Code, as amended by Chapter 179 of the Statutes of 2007, is amended to read:

298. (a) (1) The Secretary of State shall prepare forms entitled "Declaration of Domestic Partnership" and "Notice of Termination of Domestic Partnership" to meet the requirements of this division. These forms shall require the signature and seal of an acknowledgment by a notary public to be binding and valid.

(2) When funding allows, the Secretary of State shall include on the form notice that a lesbian, gay, bisexual, and transgender specific domestic abuse brochure is available upon request.

(b) (1) The Secretary of State shall distribute these forms to each county clerk. These forms shall be available to the public at the office of the Secretary of State and each county clerk.

(2) The Secretary of State shall, by regulation, establish fees for the actual costs of processing each of these forms, and the cost for preparing

and sending the mailings and notices required pursuant to Section 299.3, and shall charge these fees to persons filing the forms.

(3) There is hereby established a fee of twenty-three dollars ($23) to be charged in addition to the existing fees established by regulation to persons filing domestic partner registrations pursuant to Section 297 for development and support of a lesbian, gay, bisexual, and transgender curriculum for training workshops on domestic violence, conducted pursuant to Section 13823.15 of the Penal Code, and for the support of a grant program to promote healthy nonviolent relationships in the lesbian, gay, bisexual, and transgender community. This paragraph shall not apply to persons of opposite sexes filing a domestic partnership registration and who meet the qualifications described in subparagraph (B) of paragraph (5) of subdivision (b) of Section 297.

(4) The fee established by paragraph (3) shall be deposited in the Equality in Prevention and Services for Domestic Abuse Fund, which is hereby established. The fund shall be administered by the Office of Emergency Services, and expenditures from the fund shall be used to support the purposes of paragraph (3).

(c) The Declaration of Domestic Partnership shall require each person who wants to become a domestic partner to (1) state that he or she meets the requirements of Section 297 at the time the form is signed, (2) provide a mailing address, (3) state that he or she consents to the jurisdiction of the Superior Courts of California for the purpose of a proceeding to obtain a judgment of dissolution or nullity of the domestic partnership or for legal separation of partners in the domestic partnership, or for any other proceeding related to the partners' rights and obligations, even if one or both partners ceases to be a resident of, or to maintain a domicile in, this state, (4) sign the form with a declaration that representations made therein are true, correct, and contain no material omissions of fact to the best knowledge and belief of the applicant, and (5) have a notary public acknowledge his or her signature. Both partners' signatures shall be affixed to one Declaration of Domestic Partnership form, which form shall then be transmitted to the Secretary of State according to the instructions provided on the form. Filing an intentionally and materially false Declaration of Domestic Partnership shall be punishable as a misdemeanor.

(d) The Declaration of Domestic Partnership form shall contain an optional section for either party or both parties to indicate a change in name pursuant to Section 298.6. The optional section shall require a party indicating a change in name to provide his or her date of birth.

SEC. 5. Section 298.5 of the Family Code is amended to read:

298.5. (a) Two persons desiring to become domestic partners may complete and file a Declaration of Domestic Partnership with the Secretary of State.

(b) The Secretary of State shall register the Declaration of Domestic Partnership in a registry for those partnerships, and shall return a copy of the registered form and a Certificate of Registered Domestic Partnership and, except for those opposite sex domestic partners who meet the qualifications described in subparagraph (B) of paragraph (5) of subdivision (b) of Section 297, a copy of the brochure that is made available to county clerks and the Secretary of State by the State Department of Public Health pursuant to Section 358 and distributed to individuals receiving a confidential marriage license pursuant to Section 503, to the domestic partners at the mailing address provided by the domestic partners.

(c) No person who has filed a Declaration of Domestic Partnership may file a new Declaration of Domestic Partnership or enter a civil marriage with someone other than their registered domestic partner unless the most recent domestic partnership has been terminated or a final judgment of dissolution or nullity of the most recent domestic partnership has been entered. This prohibition does not apply if the previous domestic partnership ended because one of the partners died.

(d) When funding allows, the Secretary of State shall print and make available upon request, pursuant to Section 358, a lesbian, gay, bisexual, and transgender specific domestic abuse brochure developed by the State Department of Public Health and made available to the Secretary of State to domestic partners who qualify pursuant to Section 297.

(e) The Certificate of Registered Domestic Partnership shall include the name used by each party before registration of the domestic partnership and the new name, if any, selected by each party upon registration of the domestic partnership.

SEC. 6. Section 298.6 is added to the Family Code, to read:

298.6. (a) Parties to a registered domestic partnership shall not be required to have the same name. Neither party shall be required to change his or her name. A person's name shall not change upon registration as a domestic partner unless that person elects to change his or her name pursuant to subdivision (b).

(b) (1) One party or both parties to a registered domestic partnership may elect to change the middle or last names by which that party wishes to be known after registration of the domestic partnership by entering the new name in the space provided on the Declaration of Domestic Partnership form without intent to defraud.

(2) A person may adopt any of the following middle or last names pursuant to paragraph (1):

(A) The current last name of the other domestic partner.

(B) The last name of either domestic partner given at birth.

(C) A name combining into a single last name all or a segment of the current last name or the last name of either domestic partner given at birth.

(D) A hyphenated combination of last names.

(3) (A) An election by a person to change his or her name pursuant to paragraph (1) shall serve as a record of the name change. A certified copy of the Certificate of Registered Domestic Partnership containing the new name, or retaining the former name, shall constitute proof that the use of the new name or retention of the former name is lawful.

(B) A certified copy of a Certificate of Registered Domestic Partnership shall be accepted as identification establishing a true, full name for purposes of Section 12800.7 of the Vehicle Code.

(C) Nothing in this section shall be construed to prohibit the Department of Motor Vehicles from accepting as identification other documents establishing a true, full name for purposes of Section 12800.7 of the Vehicle Code. Those documents may include, without limitation, a certified copy of a document that is substantially equivalent to a Certificate of Registered Domestic Partnership that records either of the following:

(i) A legal union of two persons that was validly formed in another jurisdiction and is recognized as a valid domestic partnership in this state pursuant to Section 299.2.

(ii) A legal union of domestic partners as defined by a local jurisdiction pursuant to Section 299.6.

(D) This section shall be applied in a manner consistent with the requirements of Sections 1653.5 and 12801 of the Vehicle Code.

(4) The adoption of a new name, or the choice not to adopt a new name, by means of a Declaration of Domestic Partnership pursuant to paragraph (1) shall not abrogate the right of either party to adopt a different name through usage at a future date, or to petition the superior court for a change of name pursuant to Title 8 (commencing with Section 1275) of Part 3 of the Code of Civil Procedure.

(c) Nothing in this section shall be construed to abrogate the common law right of any person to change his or her name, or the right of any person to petition the superior court for a change of name pursuant to Title 8 (commencing with Section 1275) of Part 3 of the Code of Civil Procedure.

SEC. 7. Section 306.5 is added to the Family Code, to read:

306.5. (a) Parties to a marriage shall not be required to have the same name. Neither party shall be required to change his or her name.

A person's name shall not change upon marriage unless that person elects to change his or her name pursuant to subdivision (b).

(b) (1) One party or both parties to a marriage may elect to change the middle or last names by which that party wishes to be known after solemnization of the marriage by entering the new name in the spaces provided on the marriage license application without intent to defraud.

(2) A person may adopt any of the following middle or last names pursuant to paragraph (1):

(A) The current last name of the other spouse.

(B) The last name of either spouse given at birth.

(C) A name combining into a single last name all or a segment of the current last name or the last name of either spouse given at birth.

(D) A hyphenated combination of last names.

(3) (A) An election by a person to change his or her name pursuant to paragraph (1) shall serve as a record of the name change. A certified copy of a marriage certificate containing the new name, or retaining the former name, shall constitute proof that the use of the new name or retention of the former name is lawful.

(B) A certified copy of a marriage certificate shall be accepted as identification establishing a true, full name for purposes of Section 12800.7 of the Vehicle Code.

(C) Nothing in this section shall be construed to prohibit the Department of Motor Vehicles from accepting as identification other documents establishing a true, full name for purposes of Section 12800.7 of the Vehicle Code. Those documents may include, without limitation, a certified copy of a marriage certificate recording a marriage outside of this state.

(D) This section shall be applied in a manner consistent with the requirements of Sections 1653.5 and 12801 of the Vehicle Code.

(4) The adoption of a new name, or the choice not to adopt a new name, by means of a marriage license application pursuant to paragraph (1) shall only be made at the time the marriage license is issued. After a marriage certificate is registered by the local registrar, the certificate may not be amended to add a new name or change the name adopted pursuant to paragraph (1). This requirement shall not abrogate the right of either party to adopt a different name through usage at a future date, or to petition the superior court for a change of name pursuant to Title 8 (commencing with Section 1275) of Part 3 of the Code of Civil Procedure.

(c) Nothing in this section shall be construed to abrogate the common law right of any person to change his or her name, or the right of any person to petition the superior court for a change of name pursuant to

Title 8 (commencing with Section 1275) of Part 3 of the Code of Civil Procedure.

(d) This section shall become operative on January 1, 2009.

SEC. 8. Section 355 of the Family Code, as amended by Section 11 of Chapter 816 of the Statutes of 2006, is amended to read:

355. (a) The forms for the marriage license shall be prescribed by the State Department of Public Health, and shall be adapted to set forth the facts required in this part.

(b) The marriage license shall include an affidavit, which the applicants shall sign, affirming that they have received the brochure provided for in Section 358. If the marriage is to be entered into pursuant to subdivision (b) of Section 420, the attorney in fact shall sign the affidavit on behalf of the applicant who is overseas.

(c) The forms for the marriage license shall contain spaces for either party or both parties to indicate a change in name pursuant to Section 306.5.

SEC. 9. Section 358 of the Family Code is amended to read:

358. (a) The State Department of Public Health shall prepare and publish a brochure that shall contain the following:

(1) Information concerning the possibilities of genetic defects and diseases and a listing of centers available for the testing and treatment of genetic defects and diseases.

(2) Information concerning acquired immunodeficiency syndrome (AIDS) and the availability of testing for antibodies to the probable causative agent of AIDS.

(3) Information concerning domestic violence, including resources available to victims and a statement that physical, emotional, psychological, and sexual abuse, and assault and battery, are against the law.

(4) Information concerning options for changing a name upon solemnization of marriage pursuant to Section 306.5, or upon registration of a domestic partnership pursuant to Section 298.6. That information shall include a notice that the recording of a change in name or the absence of a change in name on a marriage license application and certificate pursuant to Section 306.5 may not be amended once the marriage license is issued, but that options to adopt a change in name in the future through usage, common law, or petitioning the superior court are preserved, as set forth in Section 306.5.

(b) The State Department of Public Health shall make the brochures available to county clerks who shall distribute a copy of the brochure to each applicant for a marriage license, including applicants for a confidential marriage license and notaries public receiving a confidential marriage license pursuant to Section 503. The department shall also

make the brochure available to the Secretary of State, who shall distribute a copy of the brochure to persons who qualify as domestic partners pursuant to Section 297 and shall make the brochure available electronically on the Internet Web site of the Secretary of State.

(c) The department shall prepare a lesbian, gay, bisexual, and transgender specific domestic abuse brochure and make the brochure available to the Secretary of State who shall print and make available the brochure, as funding allows, pursuant to Section 298.5.

(d) Each notary public issuing a confidential marriage license under Section 503 shall distribute a copy of the brochure to the applicants for a confidential marriage license.

(e) To the extent possible, the State Department of Public Health shall seek to combine in a single brochure all statutorily required information for marriage license applicants.

SEC. 10. Section 103175 of the Health and Safety Code, as amended by Section 46 of Chapter 816 of the Statutes of 2006, is amended to read:

103175. (a) The marriage license shall contain as nearly as can be ascertained all of the following and other items as the State Registrar may designate:

(1) The first section shall include the personal data of each party married, including the date of birth, full given name at birth or by court order, birthplace, mailing address, names and birthplaces of each party's parents, last names at birth of each party's parents, the number of previous marriages, marital status, the name used prior to the intended marriage by each party at the time of the marriage license application, if the name is different from the name given at birth or by court order, and the new name, if any, selected by each party for intended use upon solemnization of the marriage.

(2) The second section shall include the signatures of parties married, license to marry, county and date of issuance of license, and the marriage license number.

(3) The third section shall include the certification of one person performing the ceremony, that shall show his or her official position including the denomination if he or she is a clergy or clergyperson, and the printed name, signature, and mailing address of at least one, and no more than two, witnesses to the marriage ceremony. The person performing the marriage ceremony shall also type or print his or her name and mailing address on the marriage license.

(b) The marriage license shall not contain any reference to the race or color of parties married.

SEC. 11. Section 103180 of the Health and Safety Code, as amended by Section 47 of Chapter 816 of the Statutes of 2006, is amended to read:

103180. (a) Sections 103150 and 103175 do not apply to marriages entered into pursuant to Section 307 of the Family Code. Subdivisions (b) and (c) govern the registration and the content of the License and Certificate of Non-Clergy Marriage of those marriages.

(b) Each marriage entered into pursuant to Section 307 of the Family Code shall be registered by the parties entering into the marriage or by a witness who signed under paragraph (2) of subdivision (a) of Section 307 within 10 days after the ceremony with the local registrar of marriages for the county in which the License and Certificate of Non-Clergy Marriage was issued.

(c) The License and Certificate of Non-Clergy Marriage entered into pursuant to Section 307 of the Family Code shall contain as nearly as can be ascertained the following:

(1) The personal data of each party married, including the date of birth, full given name at birth or by court order, birthplace, mailing address, names and birthplaces of each party's parents, last names at birth of each party's parents, the number of previous marriages, marital status, the name used prior to the intended marriage by each party at the time of the marriage license application, if the name is different from the name given at birth or by court order, and the new name, if any, selected by each party for intended use upon solemnization of the marriage.

(2) The license to marry.

(3) The county and date of issuance of the license.

(4) The marriage license number.

(5) The certification of the parties entering into the marriage, that shall show the following:

(A) The fact, time, and place of entering into the marriage.

(B) The printed name, signature, and mailing address of two witnesses to the marriage ceremony.

(C) The religious society or denomination of the parties married, and that the marriage was entered into in accordance with the rules and customs of that religious society or denomination.

(6) The signatures of the parties married.

(7) Any other items that the State Registrar shall designate.

(d) The License and Certificate of Non-Clergy Marriage shall not contain any reference to the race or color of parties married or to a person performing or solemnizing the marriage.

SEC. 12. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service

mandated by this act, within the meaning of Section 17556 of the Government Code.

SEC. 13. (a) The amendments made to Section 355 of the Family Code, as amended by Section 11 of Chapter 816 of the Statutes of 2006, made by Section 8 of this act shall become operative on January 1, 2009.

(b) The amendments made to Section 103175 of the Health and Safety Code, as amended by Section 46 of Chapter 816 of the Statutes of 2006, made by Section 10 of this act shall become operative on January 1, 2009.

(c) The amendments made to Section 103180 of the Health and Safety Code, as amended by Section 47 of Chapter 816 of the Statutes of 2006, made by Section 11 of this act shall become operative on January 1, 2009.

CHAPTER 568

An act to amend Sections 125.6, 16721, 16721.5, 19572, 23426.5, 23428.19, 23428.28, and 23438 of the Business and Professions Code, to amend Sections 82, 83, 84, 85, and 1747.80 of the Civil Code, to amend Sections 204 and 425.15 of the Code of Civil Procedure, to amend Sections 5047.5 and 24001.5 of the Corporations Code, to amend Sections 66030, 66251, 66270, 66292, 66292.1, 66292.2, 69535,72011, 72014, 89757, and 92150 of the Education Code, to amend Section 2110 of the Elections Code, to amend Sections 11015, 11131, 54091, 54092, 54961, and 68088 of the Government Code, to amend Sections 1317, 1317.3, and 11801 of the Health and Safety Code, to amend Section 10115.7 of the Public Contract Code, to amend Sections 5080.18 and 5080.34 of the Public Resources Code, to amend Sections 453 and 12751.3 of the Public Utilities Code, to amend Section 24343.2 of, and to repeal and amend Section 17269 of, the Revenue and Taxation Code, and to amend Sections 4666, 5348, 5806, 10000, 16522.1, and 18907 of the Welfare and Institutions Code, relating to discrimination.

[Approved by Governor October 12, 2007. Filed with Secretary of State October 12, 2007.]

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares as follows:

(a) Even prior to passage of the Unruh Civil Rights Act, California law afforded broad protection against arbitrary discrimination by business establishments. The Unruh Civil Rights Act was enacted to provide

broader, more effective protection against arbitrary discrimination. California's interest in preventing that discrimination is longstanding and compelling.

(b) In keeping with that history and the legislative history of the Unruh Civil Rights Act, California courts have interpreted the categories enumerated in the act to be illustrative rather than restrictive. It is the intent of the Legislature that these enumerated bases shall continue to be construed as illustrative rather than restrictive, and, consistent with the Unruh Civil Rights Act, that the civil rights provisions of this act that reference Section 51 of the Civil Code also be interpreted to be illustrative rather than restrictive.

SEC. 1.5. This act shall be known and may be cited as the Civil Rights Act of 2007.

SEC. 2. Section 125.6 of the Business and Professions Code is amended to read:

125.6. (a) (1) With regard to an applicant, every person who holds a license under the provisions of this code is subject to disciplinary action under the disciplinary provisions of this code applicable to that person if, because of any characteristic listed or defined in subdivision (b) or (e) of Section 51 of the Civil Code, he or she refuses to perform the licensed activity or aids or incites the refusal to perform that licensed activity by another licensee, or if, because of any characteristic listed or defined in subdivision (b) or (e) of Section 51 of the Civil Code, he or she makes any discrimination, or restriction in the performance of the licensed activity.

(2) Nothing in this section shall be interpreted to prevent a physician or health care professional licensed pursuant to Division 2 (commencing with Section 500) from considering any of the characteristics of a patient listed in subdivision (b) or (e) of Section 51 of the Civil Code if that consideration is medically necessary and for the sole purpose of determining the appropriate diagnosis or treatment of the patient.

(3) Nothing in this section shall be interpreted to apply to discrimination by employers with regard to employees or prospective employees, nor shall this section authorize action against any club license issued pursuant to Article 4 (commencing with Section 23425) of Chapter 3 of Division 9 because of discriminatory membership policy.

(4) The presence of architectural barriers to an individual with physical disabilities that conform to applicable state or local building codes and regulations shall not constitute discrimination under this section.

(b) (1) Nothing in this section requires a person licensed pursuant to Division 2 (commencing with Section 500) to permit an individual to participate in, or benefit from, the licensed activity of the licensee where that individual poses a direct threat to the health or safety of others. For

this purpose, the term "direct threat" means a significant risk to the health or safety of others that cannot be eliminated by a modification of policies, practices, or procedures or by the provision of auxiliary aids and services.

(2) Nothing in this section requires a person licensed pursuant to Division 2 (commencing with Section 500) to perform a licensed activity for which he or she is not qualified to perform.

(c) (1) "Applicant," as used in this section, means a person applying for licensed services provided by a person licensed under this code.

(2) "License," as used in this section, includes "certificate," "permit," "authority," and "registration" or any other indicia giving authorization to engage in a business or profession regulated by this code.

SEC. 3. Section 16721 of the Business and Professions Code is amended to read:

16721. Recognizing that the California Constitution prohibits a person from being disqualified from entering or pursuing a business, profession, vocation, or employment because of sex, race, creed, color, or national or ethnic origin, and guarantees the free exercise and enjoyment of religion without discrimination or preference; and recognizing that these and other basic, fundamental constitutional principles are directly affected and denigrated by certain ongoing practices in the business and commercial world, it is necessary that provisions protecting and enhancing a person's right to enter or pursue business and to freely exercise and enjoy religion, consistent with law, be established.

(a) No person within the jurisdiction of this state shall be excluded from a business transaction on the basis of a policy expressed in any document or writing and imposed by a third party where that policy requires discrimination against that person on the basis of any characteristic listed or defined in subdivision (b) or (e) of Section 51 of the Civil Code or on the basis that the person conducts or has conducted business in a particular location.

(b) No person within the jurisdiction of this state shall require another person to be excluded, or be required to exclude another person, from a business transaction on the basis of a policy expressed in any document or writing that requires discrimination against that other person on the basis of any characteristic listed or defined in subdivision (b) or (e) of Section 51 of the Civil Code or on the basis that the person conducts or has conducted business in a particular location.

(c) Any violation of any provision of this section is a conspiracy against trade.

(d) Nothing in this section shall be construed to prohibit any person, on this basis of his or her individual ideology or preferences, from doing business or refusing to do business with any other person consistent with law.

SEC. 4. Section 16721.5 of the Business and Professions Code is amended to read:

16721.5. (a) It is an unlawful trust and an unlawful restraint of trade for any person to do the following:

(1) Grant or accept any letter of credit, or other document that evidences the transfer of funds or credit, or enter into any contract for the exchange of goods or services, where the letter of credit, contract, or other document contains any provision that requires any person to discriminate against or to certify that he, she, or it has not dealt with any other person on the basis of any characteristic listed or defined in subdivision (b) or (e) of Section 51 of the Civil Code, or on the basis of a person's lawful business associations.

(2) To refuse to grant or accept any letter of credit, or other document that evidences the transfer of funds or credit, or to refuse to enter into any contract for the exchange of goods or services, on the ground that it does not contain a discriminatory provision or certification.

(b) The provisions of this section shall not apply to any letter of credit, contract, or other document that contains any provision pertaining to a labor dispute or an unfair labor practice if the other provisions of that letter of credit, contract, or other document do not otherwise violate the provisions of this section.

(c) For purposes of this section, the prohibition against discrimination on the basis of a person's business associations shall be deemed not to include the requiring of association with particular employment or a particular group as a prerequisite to obtaining group rates or discounts on insurance, recreational activities, or other similar benefits.

(d) For purposes of this section, "person" shall include, but not be limited to, individuals, firms, partnerships, associations, corporations, and governmental agencies.

SEC. 5. Section 19572 of the Business and Professions Code is amended to read:

19572. The board may, by rule, provide for the exclusion or ejection from any inclosure where horse races are authorized, or from specified portions of that inclosure, of any known bookmaker, known tout, person who has been convicted of a violation of any provision of this chapter or of any law prohibiting bookmaking or any other illegal form of wagering on horseraces, or any other person whose presence in the inclosure would, in the opinion of the board, be inimical to the interests of the state or of legitimate horse racing, or both. No rule shall provide for the exclusion or ejection of any person on the ground of any characteristic listed or defined in subdivision (b) or (e) of Section 51 of the Civil Code.

SEC. 6. Section 23426.5 of the Business and Professions Code is amended to read:

23426.5. (a) For purposes of this article, "club" also means any tennis club that maintains not less than four regulation tennis courts, together with the necessary facilities and clubhouse, has members paying regular monthly dues, has been in existence for not less than 45 years, and is not associated with a common interest development as defined in Section 1351 of the Civil Code, a community apartment project as defined in Section 11004 of this code, a project consisting of condominiums as defined in Section 783 of the Civil Code, or a mobilehome park as defined in Section 18214 of the Health and Safety Code.

(b) It shall be unlawful for any club licensed pursuant to this section to make any discrimination, distinction, or restriction against any person on account of age or any characteristic listed or defined in subdivision (b) or (e) of Section 51 of the Civil Code.

SEC. 7. Section 23428.19 of the Business and Professions Code is amended to read:

23428.19. For purposes of this article, "club" also means any private club organized to play handball or racquetball, which owns, maintains, or operates a building containing not less than four regulation-size handball or racquetball courts, which has members, and the members each pay regular monthly dues. As used in this section, a "regulation-size handball or racquetball court" is a court meeting the standards for regulation courts as are promulgated by the United States Handball Association or an equivalent organization.

It shall be unlawful for any club licensed pursuant to this section to make any discrimination, distinction, or restriction against any person on account of any characteristic listed or defined in subdivision (b) or (e) of Section 51 of the Civil Code.

SEC. 8. Section 23428.28 of the Business and Professions Code is amended to read:

23428.28. For the purposes of this article, "club" also means any beach and athletic club that owns, maintains, or operates a standard Amateur Athletic Union (AAU) swimming pool together with the necessary facilities and clubhouse, has a minimum of 500 members paying regular monthly dues, and has continuously operated for not less than one year.

No license shall be issued to any beach and athletic club qualifying as a club pursuant to this section if the beach and athletic club in any manner restricts membership or the use of its facilities on the basis of age or any characteristic listed or defined in subdivision (b) or (e) of Section 51 of the Civil Code.

SEC. 9. Section 23438 of the Business and Professions Code is amended to read:

23438. (a) Any alcoholic beverage club licensee which restricts membership or the use of its services or facilities on the basis of ancestry or any characteristic listed or defined in Section 11135 of the Government Code shall, when issuing a receipt for expenses which may otherwise be used by taxpayers for deduction purposes pursuant to Section 162(a) of the Internal Revenue Code, for purposes of the Personal Income Tax Law, or Section 24343 of the Revenue and Taxation Code, for purposes of the Bank and Corporation Tax Law, incorporate a printed statement on the receipt as follows:

"The expenditures covered by this receipt are nondeductible for state income tax purposes or franchise tax purposes."

(b) For purposes of this section, the following terms have the following meanings:

(1) "Expenses" means expenses, as defined in Section 17269 or 24343.2 of the Revenue and Taxation Code.

(2) "Club" means a club holding an alcoholic beverage license pursuant to the provisions of this division, except a club holding an alcoholic beverage license pursuant to Section 23425.

SEC. 10. Section 82 of the Civil Code is amended to read:

82. This part shall be liberally construed and applied to promote its underlying purposes and policies, which are as follows:

(a) The prohibition of discrimination based upon any characteristic listed or defined in subdivision (b) or (e) of Section 51 in the granting, sale, transfer, bequest, termination, and nonrenewal of dealerships.

(b) The requirements of this part shall not be varied by contract or agreement and any portion of a contract or agreement purporting to do so is void and unenforceable.

SEC. 11. Section 83 of the Civil Code is amended to read:

83. On or after January 1, 1981, no grantor, directly or indirectly, shall refuse to grant a dealership to any person because of any characteristic listed or defined in subdivision (b) or (e) of Section 51.

SEC. 12. Section 84 of the Civil Code is amended to read:

84. On or after January 1, 1981, no grantor, directly or indirectly, may terminate, cancel, or refuse to renew a dealership agreement with a dealer because of any characteristic listed or defined in subdivision (b) or (e) of Section 51.

SEC. 13. Section 85 of the Civil Code is amended to read:

85. On or after January 1, 1981, no grantor or dealer, directly or indirectly, shall refuse to make or to consent to an assignment, sale, transfer, or bequest of a dealership to any person, or to the intestate succession to the dealership by any person, because of any characteristic

listed or defined in subdivision (b) or (e) of Section 51. This section shall not be construed to create any right in a dealer to assign, sell, transfer, or bequeath a dealership where the right did not exist prior to January 1, 1981.

SEC. 14. Section 1747.80 of the Civil Code is amended to read:

1747.80. (a) No card issuer shall refuse to issue a credit card to any person solely because of any characteristic listed or defined in subdivision (b) or (e) of Section 51.

(b) Any card issuer who willfully violates this section is liable for each and every offense for the actual damages, and two hundred fifty dollars ($250) in addition thereto, suffered by any person denied a credit card solely for the reasons set forth in subdivision (a). In addition, that person may petition the court to order the card issuer to issue him or her a credit card upon the terms, conditions, and standards as the card issuer normally utilizes in granting credit to other individuals.

SEC. 15. Section 204 of the Code of Civil Procedure is amended to read:

204. (a) No eligible person shall be exempt from service as a trial juror by reason of occupation, economic status, or any characteristic listed or defined in Section 11135 of the Government Code, or for any other reason. No person shall be excused from service as a trial juror except as specified in subdivision (b).

(b) An eligible person may be excused from jury service only for undue hardship, upon themselves or upon the public, as defined by the Judicial Council.

SEC. 16. Section 425.15 of the Code of Civil Procedure is amended to read:

425.15. (a) No cause of action against a person serving without compensation as a director or officer of a nonprofit corporation described in this section, on account of any negligent act or omission by that person within the scope of that person's duties as a director acting in the capacity of a board member, or as an officer acting in the capacity of, and within the scope of the duties of, an officer, shall be included in a complaint or other pleading unless the court enters an order allowing the pleading that includes that claim to be filed after the court determines that the party seeking to file the pleading has established evidence that substantiates the claim. The court may allow the filing of a pleading that includes that claim following the filing of a verified petition therefor accompanied by the proposed pleading and supporting affidavits stating the facts upon which the liability is based. The court shall order service of the petition upon the party against whom the action is proposed to be filed and permit that party to submit opposing affidavits prior to making its determination. The filing of the petition, proposed pleading, and

accompanying affidavits shall toll the running of any applicable statute of limitations until the final determination of the matter, which ruling, if favorable to the petitioning party, shall permit the proposed pleading to be filed.

(b) Nothing in this section shall affect the right of the plaintiff to discover evidence on the issue of damages.

(c) Nothing in this section shall be construed to affect any action against a nonprofit corporation for any negligent action or omission of a volunteer director or officer occurring within the scope of the person's duties.

(d) For the purposes of this section, "compensation" means remuneration whether by way of salary, fee, or other consideration for services rendered. However, the payment of per diem, mileage, or other reimbursement expenses to a director or officer shall not constitute compensation.

(e) (1) This section applies only to officers and directors of nonprofit corporations that are subject to Part 2 (commencing with Section 5110), Part 3 (commencing with Section 7110), or Part 4 (commencing with Section 9110) of Division 2 of Title 1 of the Corporations Code that are organized to provide charitable, educational, scientific, social, or other forms of public service and that are exempt from federal income taxation under Section 501(c)(1), except any credit union, or Section 501(c)(4), 501(c)(5), 501(c)(7), or 501(c)(19) of the Internal Revenue Code.

(2) This section does not apply to any corporation that unlawfully restricts membership, services, or benefits conferred on the basis of political affiliation, age, or any characteristic listed or defined in subdivision (b) or (e) of Section 51 of the Civil Code.

SEC. 17. Section 5047.5 of the Corporations Code is amended to read:

5047.5. (a) The Legislature finds and declares that the services of directors and officers of nonprofit corporations who serve without compensation are critical to the efficient conduct and management of the public service and charitable affairs of the people of California. The willingness of volunteers to offer their services has been deterred by a perception that their personal assets are at risk for these activities. The unavailability and unaffordability of appropriate liability insurance makes it difficult for these corporations to protect the personal assets of their volunteer decisionmakers with adequate insurance. It is the public policy of this state to provide incentive and protection to the individuals who perform these important functions.

(b) Except as provided in this section, no cause of action for monetary damages shall arise against any person serving without compensation as a director or officer of a nonprofit corporation subject to Part 2

(commencing with Section 5110), Part 3 (commencing with Section 7110), or Part 4 (commencing with Section 9110) of this division on account of any negligent act or omission occurring (1) within the scope of that person's duties as a director acting as a board member, or within the scope of that person's duties as an officer acting in an official capacity; (2) in good faith; (3) in a manner that the person believes to be in the best interest of the corporation; and (4) is in the exercise of his or her policymaking judgment.

(c) This section shall not limit the liability of a director or officer for any of the following:

(1) Self-dealing transactions, as described in Sections 5233 and 9243.

(2) Conflicts of interest, as described in Section 7233.

(3) Actions described in Sections 5237, 7236, and 9245.

(4) In the case of a charitable trust, an action or proceeding against a trustee brought by a beneficiary of that trust.

(5) Any action or proceeding brought by the Attorney General.

(6) Intentional, wanton, or reckless acts, gross negligence, or an action based on fraud, oppression, or malice.

(7) Any action brought under Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code.

(d) This section only applies to nonprofit corporations organized to provide religious, charitable, literary, educational, scientific, social, or other forms of public service that are exempt from federal income taxation under Section 501(c)(3) or 501(c)(6) of the Internal Revenue Code.

(e) This section applies only if the nonprofit corporation maintains a general liability insurance policy with an amount of coverage of at least the following amounts:

(1) If the corporation's annual budget is less than fifty thousand dollars ($50,000), the minimum required amount is five hundred thousand dollars ($500,000).

(2) If the corporation's annual budget equals or exceeds fifty thousand dollars ($50,000), the minimum required amount is one million dollars ($1,000,000).

This section applies only if the claim against the director or officer may also be made directly against the corporation and a general liability insurance policy is in force both at the time of injury and at the time the claim against the corporation is made, so that a policy is applicable to the claim. If a general liability policy is found to cover the damages caused by the director or officer, no cause of action as provided in this section shall be maintained against the director or officer.

(f) For the purposes of this section, the payment of actual expenses incurred in attending meetings or otherwise in the execution of the duties of a director or officer shall not constitute compensation.

(g) Nothing in this section shall be construed to limit the liability of a nonprofit corporation for any negligent act or omission of a director, officer, employee, agent, or servant occurring within the scope of his or her duties.

(h) This section does not apply to any corporation that unlawfully restricts membership, services, or benefits conferred on the basis of political affiliation, age, or any characteristic listed or defined in subdivision (b) or (e) of Section 51 of the Civil Code.

(i) This section does not apply to any volunteer director or officer who receives compensation from the corporation in any other capacity, including, but not limited to, as an employee.

SEC. 18. Section 24001.5 of the Corporations Code is amended to read:

24001.5. (a) The Legislature finds and declares that the services of directors or officers of nonprofit medical associations, as defined in Section 21200, who serve without compensation are critical to the efficient conduct and management of the public service and charitable affairs of the people of California. The willingness of volunteers to offer their services has been deterred by a perception that their personal assets are at risk for these activities. The unavailability and unaffordability of appropriate liability insurance makes it difficult for these associations to protect the personal assets of their volunteer decisionmakers with adequate insurance. It is the public policy of this state to provide incentive and protection to the individuals who perform these important functions.

(b) Except as provided in this section, no cause of action for monetary damages shall arise against any person serving without compensation as a director or officer of a nonprofit medical association, as defined in Section 21200, on account of any negligent act or omission occurring (1) within the scope of that person's duties as a director acting as a board member, or within the scope of that person's duties as an officer acting in an official capacity; (2) in good faith; (3) in a manner that the person believes to be in the best interest of the association; and (4) is in the exercise of his or her policymaking judgment.

(c) This section shall not limit the liability of a director or officer for any of the following:

(1) Self-dealing transactions, as described in Sections 5233 and 9243.

(2) Conflicts of interest, as described in Section 7233.

(3) Actions described in Sections 5237, 7236, and 9245.

(4) In the case of a charitable trust, an action or proceeding against a trustee brought by a beneficiary of that trust.

(5) Any action or proceeding brought by the Attorney General.

(6) Intentional, wanton, or reckless acts, gross negligence, or an action based on fraud, oppression, or malice.

(7) Any action brought under Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code.

(d) This section only applies to nonprofit organizations organized to provide charitable, educational, scientific, social, or other forms of public service that are exempt from federal income taxation under Section 501(c)(3) or 501(c)(6) of the Internal Revenue Code.

(e) This section applies only if the nonprofit association maintains a general liability insurance policy with an amount of coverage of at least the following amounts:

(1) If the association's annual budget is less than fifty thousand dollars ($50,000), the minimum required amount is five hundred thousand dollars ($500,000).

(2) If the association's annual budget equals or exceeds fifty thousand dollars ($50,000), the minimum required amount is one million dollars ($1,000,000).

This section applies only if the general liability insurance policy is in force both at the time of injury and at the time that the claim is made, so that the policy is applicable to the claim.

(f) For the purposes of this section, the payment of actual expenses incurred in attending meetings or otherwise in the execution of the duties of a director or officer shall not constitute compensation.

(g) Nothing in this section shall be construed to limit the liability of a nonprofit association for any negligent act or omission of a director, officer, employee, agent, or servant occurring within the scope of his or her duties.

(h) This section does not apply to any association that unlawfully restricts membership, services, or benefits conferred on the basis of political affiliation, age, or any characteristic listed or defined in subdivision (b) or (e) of Section 51 of the Civil Code.

(i) This section does not apply to any volunteer director or officer who receives compensation from the association in any other capacity, including, but not limited to, as an employee.

SEC. 19. Section 66030 of the Education Code is amended to read:

66030. (a) It is the intent of the Legislature that public higher education in California strive to provide educationally equitable environments that give each Californian, regardless of age, economic circumstance, or any other characteristic listed or defined in Section 11135 of the Government Code, a reasonable opportunity to develop fully his or her potential.

(b) It is the responsibility of the governing boards of institutions of higher education to ensure and maintain multicultural learning environments free from all forms of discrimination and harassment, in accordance with state and federal law.

SEC. 20. Section 66251 of the Education Code is amended to read:

66251. It is the policy of the State of California to afford all persons, regardless of any characteristic listed or defined in Section 11135 of the Government Code or any basis that is contained in the prohibition of hate crimes set forth in subdivision (a) of Section 422.6 of the Penal Code, equal rights and opportunities in the postsecondary institutions of the state. The purpose of this chapter is to prohibit acts that are contrary to that policy and to provide remedies therefor.

SEC. 21. Section 66270 of the Education Code is amended to read:

66270. No person shall be subjected to discrimination on the basis of any characteristic listed or defined in Section 11135 of the Government Code or any basis that is contained in the prohibition of hate crimes set forth in subdivision (a) of Section 422.6 of the Penal Code in any program or activity conducted by any postsecondary educational institution that receives, or benefits from, state financial assistance or enrolls students who receive state student financial aid.

SEC. 21.5. Section 66270 of the Education Code is amended to read:

66270. No person shall be subjected to discrimination on the basis of disability, gender, nationality, race or ethnicity, religion, sexual orientation, or any characteristic listed or defined in Section 11135 of the Government Code or any characteristic that is contained in the prohibition of hate crimes set forth in subdivision (a) of Section 422.6 of the Penal Code in any program or activity conducted by any postsecondary educational institution that receives, or benefits from, state financial assistance or enrolls students who receive state student financial aid.

SEC. 22. Section 66292 of the Education Code is amended to read:

66292. (a) The governing board of a community college district shall have the primary responsibility for ensuring that community college district programs and activities are free from discrimination based on any characteristic listed or defined in Section 11135 of the Government Code.

(b) The Chancellor's office of the California Community Colleges shall have responsibility for monitoring the compliance of each district with any and all regulations adopted pursuant to Section 11138 of the Government Code.

SEC. 23. Section 66292.1 of the Education Code is amended to read:

66292.1. The Chancellor of the California State University and the president of each California State University campus shall have the

primary responsibility for ensuring that campus programs and activities are free from discrimination based on any characteristic listed or defined in Section 11135 of the Government Code.

SEC. 24. Section 66292.2 of the Education Code is amended to read:

66292.2. The President of the University of California and the chancellor of each University of California campus shall have primary responsibility for ensuring that campus programs and activities are free from discrimination based on any characteristic listed or defined in Section 11135 of the Government Code.

SEC. 25. Section 69535 of the Education Code is amended to read:

69535. (a) Cal Grant Program awards shall be based upon the financial need of the applicant. The level of financial need of each applicant shall be determined by the commission pursuant to Article 1.5 (commencing with Section 69503).

(b) For the applicants so qualifying, academic criteria or criteria related to past performances shall be utilized as the criteria in determining eligibility for grants.

(c) All Cal Grant Program award recipients shall be residents of California, as determined by the commission pursuant to Part 41 (commencing with Section 68000), and shall remain eligible only if they are in attendance and making satisfactory progress through the instructional programs, as determined by the commission.

(d) Part-time students shall not be discriminated against in the selection of Cal Grant Program award recipients, and awards to part-time students shall be roughly proportional to the time spent in the instructional program, as determined by the commission. First-time Cal Grant Program award recipients who are part-time students shall be eligible for a full-time renewal award.

(e) Cal Grant Program awards shall be awarded without regard to any characteristic listed or defined in Section 11135 of the Government Code.

(f) No applicant shall receive more than one type of Cal Grant Program award concurrently. Except as provided in subdivisions (b) and (c) of Section 69535.1, no applicant shall:

(1) Receive one or a combination of Cal Grant Program awards in excess of a total of four years of full-time attendance in an undergraduate program.

(2) Have obtained a baccalaureate degree prior to receiving a Cal Grant Program award, except as provided in Section 69540.

(g) Cal Grant Program awards, except as provided in subdivision (c) of Section 69535.1, may only be used for educational expenses of a program of study leading directly to an undergraduate degree or certificate, or for expenses of undergraduate coursework in a program

of study leading directly to a first professional degree, but for which no baccalaureate degree is awarded.

(h) Commencing in 1999, the commission shall, for students who accelerate college attendance, increase the amount of award proportional to the period of additional attendance resulting from attendance in classes that fulfill requirements or electives for graduation during summer terms, sessions, or quarters. In the aggregate, the total amount a student may receive in a four-year period may not be increased as a result of accelerating his or her progress to a degree by attending summer terms, sessions, or quarters.

(i) The commission shall notify Cal Grant award recipients of the availability of funding for the summer term, session, or quarter through prominent notice in financial aid award letters, materials, guides, electronic information, and other means that may include, but not be limited to, surveys, newspaper articles, or attachments to communications from the commission and any other published documents.

(j) The commission may provide by appropriate rules and regulations for reports, accounting, and statements from the award winner and college or university of attendance pertaining to the use or application of the award as the commission may deem proper.

(k) The commission may establish Cal Grant Program awards in one hundred dollar ($100) increments.

(*l*) A Cal Grant Program award may be utilized only at the following institutions or programs:

(1) Any California private or independent postsecondary educational institution or program that participates in two of the three federal campus-based student aid programs and whose students participate in the Pell Grant program.

(2) Any nonprofit regionally accredited institution headquartered and operating in California that certifies to the commission that 10 percent of the institution's operating budget, as demonstrated in an audited financial statement, is expended for the purposes of institutionally funded student financial aid in the form of grants and that demonstrates to the commission that it has the administrative capacity to administer the funds.

(3) Any California public postsecondary educational institution or program.

SEC. 26. Section 72011 of the Education Code is amended to read:

72011. Every community college district shall provide access to its services, classes, and programs without regard to ancestry or any characteristic listed or defined in Section 11135 of the Government Code.

SEC. 27. Section 72014 of the Education Code is amended to read:

72014. No funds under the control of a community college district shall ever be used for membership or for any participation involving a financial payment or contribution, on behalf of the district or any individual employed by or associated therewith, in any private organization whose membership practices are discriminatory on the basis of any characteristic listed or defined in Section 11135 of the Government Code. This section does not apply to any public funds which have been paid to an individual officer or employee of the district as salary, or to any funds which are used directly or indirectly for the benefit of student organizations.

SEC. 28. Section 89757 of the Education Code is amended to read:

89757. None of the funds enumerated in Section 89756, nor any of the funds of an auxiliary organization, shall ever be used by any university or college for membership or for any participation involving a financial payment or contribution, on behalf of the institution, or any individual employed by or associated therewith, in any private organization whose membership practices are discriminatory on the basis of any characteristic listed or defined in Section 11135 of the Government Code. This section does not apply to any public funds which have been paid to an individual employee or officer as salary, or to any funds which are used directly or indirectly for the benefit of student organizations.

SEC. 29. Section 92150 of the Education Code is amended to read:

92150. No state funds under the control of an officer or employee of the University of California shall ever be used for membership or for any participation involving a financial payment or contribution, on behalf of the university, or any individual employed by or associated therewith, in any private organization whose membership practices are discriminatory on the basis of any characteristic listed or defined in Section 11135 of the Government Code. This section does not apply to any public funds which have been paid to an individual employee or officer of the university as salary, or to any funds which are used directly or indirectly for the benefit of student organizations.

SEC. 30. Section 2110 of the Elections Code is amended to read:

2110. No county elections official may refuse to deputize any person to register voters because of ancestry, marital status, political affiliation, or any characteristic listed or defined in Section 11135 of the Government Code.

SEC. 31. Section 11015 of the Government Code is amended to read:

11015. No state funds under the control of an officer or employee of the state, or of any agency thereof, shall ever be used for membership or for any participation involving a financial payment or contribution, on behalf of the state agency, or any individual employed by or associated therewith, in any private organization whose membership practices are

discriminatory on the basis of any characteristic listed or defined in Section 11135. This section does not apply to any public funds which have been paid to an individual employee or officer as salary.

SEC. 32. Section 11131 of the Government Code is amended to read:

11131. No state agency shall conduct any meeting, conference, or other function in any facility that prohibits the admittance of any person, or persons, on the basis of ancestry or any characteristic listed or defined in Section 11135, or that is inaccessible to disabled persons, or where members of the public may not be present without making a payment or purchase. As used in this section, "state agency" means and includes every state body, office, officer, department, division, bureau, board, council, commission, or other state agency.

SEC. 33. Section 54091 of the Government Code is amended to read:

54091. Any city, county, or other local agency that owns, operates, or controls any public beach shall allow the use of that public beach by all persons regardless of ancestry, residence, or any characteristic listed or defined in Section 11135. Nonresidents of the city, county, or other local agency shall be permitted to use that public beach upon the same terms and conditions as are residents of the city, county, or local agency.

SEC. 34. Section 54092 of the Government Code is amended to read:

54092. Any city, county, or other local agency that allows any property owned, operated, or controlled by it to be used as a means of access to any public beach shall allow free access over that property to all persons regardless of ancestry, residence, or any characteristic listed or defined in Section 11135.

SEC. 35. Section 54961 of the Government Code is amended to read:

54961. (a) No legislative body of a local agency shall conduct any meeting in any facility that prohibits the admittance of any person, or persons, on the basis of ancestry or any characteristic listed or defined in Section 11135, or which is inaccessible to disabled persons, or where members of the public may not be present without making a payment or purchase. This section shall apply to every local agency as defined in Section 54951.

(b) No notice, agenda, announcement, or report required under this chapter need identify any victim or alleged victim of tortious sexual conduct or child abuse unless the identity of the person has been publicly disclosed.

SEC. 36. Section 68088 of the Government Code is amended to read:

68088. The Judicial Council may provide by rule of court for racial, ethnic, and gender bias, and sexual harassment training and training for any other bias based on any characteristic listed or defined in Section 11135 for judges, commissioners, and referees.

SEC. 37. Section 1317 of the Health and Safety Code is amended to read:

1317. (a) Emergency services and care shall be provided to any person requesting the services or care, or for whom services or care is requested, for any condition in which the person is in danger of loss of life, or serious injury or illness, at any health facility licensed under this chapter that maintains and operates an emergency department to provide emergency services to the public when the health facility has appropriate facilities and qualified personnel available to provide the services or care.

(b) In no event shall the provision of emergency services and care be based upon, or affected by, the person's ethnicity, citizenship, age, preexisting medical condition, insurance status, economic status, ability to pay for medical services, or any other characteristic listed or defined in subdivision (b) or (e) of Section 51 of the Civil Code, except to the extent that a circumstance such as age, sex, preexisting medical condition, or physical or mental disability is medically significant to the provision of appropriate medical care to the patient.

(c) Neither the health facility, its employees, nor any physician and surgeon, dentist, clinical psychologist, or podiatrist shall be liable in any action arising out of a refusal to render emergency services or care if the refusal is based on the determination, exercising reasonable care, that the person is not suffering from an emergency medical condition, or that the health facility does not have the appropriate facilities or qualified personnel available to render those services.

(d) Emergency services and care shall be rendered without first questioning the patient or any other person as to his or her ability to pay therefor. However, the patient or his or her legally responsible relative or guardian shall execute an agreement to pay therefor or otherwise supply insurance or credit information promptly after the services are rendered.

(e) If a health facility subject to this chapter does not maintain an emergency department, its employees shall nevertheless exercise reasonable care to determine whether an emergency exists and shall direct the persons seeking emergency care to a nearby facility that can render the needed services, and shall assist the persons seeking emergency care in obtaining the services, including transportation services, in every way reasonable under the circumstances.

(f) No act or omission of any rescue team established by any health facility licensed under this chapter, or operated by the federal or state government, a county, or by the Regents of the University of California, done or omitted while attempting to resuscitate any person who is in immediate danger of loss of life shall impose any liability upon the health

facility, the officers, members of the staff, nurses, or employees of the health facility, including, but not limited to, the members of the rescue team, or upon the federal or state government or a county, if good faith is exercised.

(g) "Rescue team," as used in this section, means a special group of physicians and surgeons, nurses, and employees of a health facility who have been trained in cardiopulmonary resuscitation and have been designated by the health facility to attempt, in cases of emergency, to resuscitate persons who are in immediate danger of loss of life.

(h) This section shall not relieve a health facility of any duty otherwise imposed by law upon the health facility for the designation and training of members of a rescue team or for the provision or maintenance of equipment to be used by a rescue team.

SEC. 38. Section 1317.3 of the Health and Safety Code is amended to read:

1317.3. (a) As a condition of licensure, each hospital shall adopt, in consultation with the medical staff, policies and transfer protocols consistent with this article and regulations adopted hereunder.

(b) As a condition of licensure, each hospital shall adopt a policy prohibiting discrimination in the provision of emergency services and care based on ethnicity, citizenship, age, preexisting medical condition, insurance status, economic status, ability to pay for medical services, or any characteristic listed or defined in subdivision (b) or (e) of Section 51 of the Civil Code, except to the extent that a circumstance such as age, sex, preexisting medical condition, or physical or mental disability is medically significant to the provision of appropriate medical care to the patient. Transfer by a hospital of a patient who requires evaluation for involuntary psychiatric treatment, as determined by the receiving hospital or other receiving health facility, based upon the decision of a professional person duly authorized by law to make that decision, shall not constitute discrimination for the purposes of this section, if the transferring hospital has not been designated as an evaluation facility by a county pursuant to Section 5150 of the Welfare and Institutions Code, and if the transfer is in compliance with Section 1317.2.

(c) As a condition of licensure, each hospital shall require that physicians and surgeons who serve on an "on-call" basis to the hospital's emergency room cannot refuse to respond to a call on the basis of the patient's ethnicity, citizenship, age, preexisting medical condition, insurance status, economic status, ability to pay for medical services, or any characteristic listed or defined in subdivision (b) or (e) of Section 51 of the Civil Code, except to the extent that a circumstance such as age, sex, preexisting medical condition, or physical or mental disability is medically significant to the provision of appropriate medical care to

the patient. If a contract between a physician and surgeon and hospital for the provision of emergency room coverage presently prevents the hospital from imposing those conditions, the conditions shall be included in the contract as soon as is legally permissible. Nothing in this section shall be construed as requiring that any physician serve on an "on-call" basis.

(d) As a condition of licensure, all hospitals shall inform all persons presented to an emergency room or their representatives if any are present and the person is unable to understand verbal or written communication, both orally and in writing, of the reasons for the transfer or refusal to provide emergency services and care and of the person's right to emergency services and care prior to transfer or discharge without regard to ability to pay. Nothing in this subdivision requires notification of the reasons for the transfer in advance of the transfer where a person is unaccompanied and the hospital has made a reasonable effort to locate a representative, and because of the person's physical or mental condition, notification is not possible. All hospitals shall prominently post a sign in their emergency rooms informing the public of their rights. Both the posted sign and written communication concerning the transfer or refusal to provide emergency services and care shall give the address of the department as the government agency to contact in the event the person wishes to complain about the hospital's conduct.

(e) If a hospital does not timely adopt the policies and protocols required in this article, the hospital, in addition to denial or revocation of any of its licenses, shall be subject to a fine not to exceed one thousand dollars ($1,000) each day after expiration of 60 days' written notice from the state department that the hospital's policies or protocols required by this article are inadequate unless the delay is excused by the state department upon a showing of good and sufficient cause by the hospital. The notice shall include a detailed statement of the state department's reasons for its determination and suggested changes to the hospital's protocols which would be acceptable to the state department.

(f) Each hospital's policies and protocols required in or under this article shall be submitted for approval to the state department by December 31, 1988.

SEC. 39. Section 11801 of the Health and Safety Code is amended to read:

11801. The alcohol and drug program administrator, acting through administrative channels designated pursuant to Section 11795, shall do all of the following:

(a) Coordinate and be responsible for the planning process, including preparation of the county plan executing the negotiated net amount contract, and Drug Medi-Cal contract, whichever is applicable.

(b) (1) Recommend to the board of supervisors the provision of services, establishment of facilities, contracting for services or facilities, and other matters necessary or desirable in accomplishing the purposes of this part.

(2) Exercise general supervision over the alcohol and other drug program services provided under the county plan, negotiated net amount contract, and Drug Medi-Cal contract, whichever is applicable.

(c) Assure compliance with applicable laws relating to discrimination against any person because of any characteristic listed or defined in Section 11135 of the Government Code.

(d) (1) Provide reports and information periodically to the advisory board regarding the status of alcohol and other drug programs in the county and keep the advisory board informed regarding changes in relevant state, federal, and local laws or regulations or improvements in program design and services that may affect the county alcohol and other drug program.

(2) Submit an annual report to the board of supervisors reporting all activities of the alcohol and other drug program, including a financial accounting of expenditures and a forecast of anticipated needs for the upcoming year.

(e) Be directly responsible for the administration of all alcohol or other drug program funds allocated to the county under this part, administration of county operated programs, and coordination and monitoring of programs that have contracts with the county to provide alcohol and other drug services.

(f) Encourage the appropriate utilization of all other public and private alcohol and other drug programs and services in the county in coordination with the programs funded pursuant to this part.

(g) Coordinate the activities of the county alcohol and other drug program with appropriate health planning agencies pursuant to Chapter 5 (commencing with Section 11820).

(h) Assure the evaluation of alcohol and other drug programs, including the collection of appropriate and necessary information, pursuant to Chapter 6 (commencing with Section 11825).

(i) Participate in the process to assure program quality in compliance with appropriate standards pursuant to Chapter 7 (commencing with Section 11830).

(j) Participate in the regulations process pursuant to Chapter 8 (commencing with Section 11835).

(k) Participate and represent the county in meetings of the County Alcohol and Drug Program Administrators Association of California pursuant to Section 11811.5 for the purposes of representing the counties

in their relationship with the state with respect to policies, standards, and administration for alcohol and other drug abuse services.

(*l*) Provide for the orientation of the members of the advisory board, including, but not limited to, the provision of information and materials on alcohol and other drug problems and programs, planning, procedures, and site visits to local programs.

(m) Perform any other acts that may be necessary, desirable, or proper to carry out the purposes of this part.

SEC. 40. Section 10115.7 of the Public Contract Code is amended to read:

10115.7. (a) Nothing in this article shall be construed to authorize any awarding department to discriminate in the awarding of any contract on the basis of ancestry or any characteristic listed or defined in Section 11135 of the Government Code.

(b) Nothing in this article shall be construed to authorize any contractor to discriminate in the solicitation or acceptance of bids for subcontracting, or for materials or equipment, on the basis of ancestry or any characteristic listed or defined in Section 11135 of the Government Code.

SEC. 41. Section 5080.18 of the Public Resources Code is amended to read:

5080.18. All concession contracts entered into pursuant to this article shall contain, but are not limited to, all of the following provisions:

(a) The maximum term shall be 10 years, except that a term of more than 10 years may be provided if the director determines that the longer term is necessary to allow the concessionaire to amortize improvements made by the concessionaire, to facilitate the full utilization of a structure that is scheduled by the department for replacement or redevelopment, or to serve the best interests of the state. The term shall not exceed 20 years without specific authorization by statute.

(b) Every concessionaire shall submit to the department all sales and use tax returns.

(c) Every concession shall be subject to audit by the department.

(d) A performance bond shall be obtained and maintained by the concessionaire. In lieu of a bond, the concessionaire may substitute a deposit of funds acceptable to the department. Interest on the deposit shall accrue to the concessionaire.

(e) The concessionaire shall obtain and maintain in force at all times a policy of liability insurance in an amount adequate for the nature and extent of public usage of the concession and naming the state as an additional insured.

(f) Any discrimination by the concessionaire or his or her agents or employees against any person because of the marital status or ancestry

of that person or any characteristic listed or defined in Section 11135 of the Government Code is prohibited.

(g) To be effective, any modification of the concession contract shall be evidenced in writing.

(h) Whenever a concession contract is terminated for substantial breach, there shall be no obligation on the part of the state to purchase any improvements made by the concessionaire.

SEC. 42. Section 5080.34 of the Public Resources Code is amended to read:

5080.34. Every agreement entered into pursuant to this article and every contract for a concession on lands that are subject to an agreement entered into pursuant to this article shall expressly prohibit discrimination against any person because of the marital status or ancestry of that person or any characteristic listed or defined in Section 11135 of the Government Code.

SEC. 43. Section 453 of the Public Utilities Code is amended to read:

453. (a) No public utility shall, as to rates, charges, service, facilities, or in any other respect, make or grant any preference or advantage to any corporation or person or subject any corporation or person to any prejudice or disadvantage.

(b) No public utility shall prejudice, disadvantage, or require different rates or deposit amounts from a person because of ancestry, medical condition, marital status or change in marital status, occupation, or any characteristic listed or defined in Section 11135 of the Government Code. A person who has exhausted all administrative remedies with the commission may institute a suit for injunctive relief and reasonable attorney's fees in cases of an alleged violation of this subdivision. If successful in litigation, the prevailing party shall be awarded attorney's fees.

(c) No public utility shall establish or maintain any unreasonable difference as to rates, charges, service, facilities, or in any other respect, either as between localities or as between classes of service.

(d) No public utility shall include with any bill for services or commodities furnished any customer or subscriber any advertising or literature designed or intended (1) to promote the passage or defeat of a measure appearing on the ballot at any election whether local, statewide, or national, (2) to promote or defeat any candidate for nomination or election to any public office, (3) to promote or defeat the appointment of any person to any administrative or executive position in federal, state, or local government, or (4) to promote or defeat any change in federal, state, or local legislation or regulations.

(e) The commission may determine any question of fact arising under this section.

SEC. 44. Section 12751.3 of the Public Utilities Code is amended to read:

12751.3. (a) The purpose of this section is to provide affected districts with an alternative acquisition process that will result in reduced costs to ratepayers. Notwithstanding Section 12751, when the expenditure for the purchase of supplies and materials exceeds fifty thousand dollars ($50,000) and the district determines that ratepayers reasonably can expect a net benefit in the cost of district services, the district may provide for the purchase of the supplies and materials by contract let in accordance with best value at the lowest cost acquisition policies adopted by the board pursuant to this section.

(b) The best value at the lowest cost acquisition policies adopted pursuant to subdivision (a) shall include the following:

(1) Price and service level proposals that reduce the district's overall operating costs.

(2) Supplies and materials standards that support the district's strategic supplies and materials acquisition and management program direction.

(3) A procedure for protest and resolution.

(c) For purposes of this section, "best value at the lowest cost acquisition" means a competitive procurement process whereby the award of a contract for supplies and materials may take into consideration any of the following factors:

(1) The total cost to the district of its use or consumption of supplies and materials.

(2) The operational cost or benefit incurred by the district as a result of the contract award.

(3) The value to the district of vendor-added services.

(4) The quality, effectiveness, and innovation of supplies, materials, and services.

(5) The reliability of delivery or installation schedules.

(6) The terms and conditions of product warranties and vendor guarantees.

(7) The financial stability of the vendor.

(8) The vendor's quality assurance program.

(9) The vendor's experience with the provision of supplies, materials, and services.

(10) The consistency of the vendor's proposed supplies, materials, and services with the district's overall supplies and materials procurement program.

(11) The economic benefits to the general community related to job creation or retention.

(d) If a district that did not purchase supplies and materials by contract let pursuant to this section before January 1, 2006, elects to purchase

supplies and materials by contract, let in accordance with best value acquisition policies adopted by the board pursuant to this section, the district shall submit a report to the Legislative Analyst on or before January 1, 2011. The district shall include in the report a summary of the costs and benefits of best value acquisition compared to traditional low bid procurement practices. The report shall also include statistics showing the number of contracts awarded to small businesses, minority-owned businesses, and new businesses and the number of years each contract awardee had been in business. The report shall also include an analysis of the effects of best value procurement practices on these businesses, the nature of any disputes arising from the use of best value procurement practices, and the status of those disputes. On or before April 1, 2011, the Legislative Analyst shall report to the Legislature on the use of "best value at lowest cost acquisition" procurement practices used by municipal utility districts, and recommend whether to modify this section and extend the authority of additional districts to elect to purchase supplies and materials by contract let in accordance with best value acquisition policies, beyond January 1, 2012.

(e) The district shall ensure that all businesses have a fair and equitable opportunity to compete for, and participate in, district contracts and shall also ensure that discrimination in the award and performance of contracts does not occur on the basis of marital status, ancestry, medical condition, any characteristic listed or defined in Section 11135 of the Government Code, or retaliation for having filed a discrimination complaint in the performance of district contractual obligations.

(f) A district that did not purchase supplies and materials by contract let pursuant to this section before January 1, 2006, shall not purchase supplies and materials by contract let pursuant to this section after January 1, 2012.

SEC. 45. Section 17269 of the Revenue and Taxation Code, as added by Section 4 of Chapter 1139 of the Statutes of 1987, is repealed.

SEC. 46. Section 17269 of the Revenue and Taxation Code, as added by Section 2 of Chapter 1463 of the Statutes of 1987, is amended to read:

17269. Whereas, the people of the State of California desire to promote and achieve tax equity and fairness among all the state's citizens and further desire to conform to the public policy of nondiscrimination, the Legislature hereby enacts the following for these reasons and for no other purpose:

(a) The provisions of Section 162 (a) of the Internal Revenue Code shall not be applicable to expenses incurred by a taxpayer with respect to expenditures made at, or payments made to, a club which restricts membership or the use of its services or facilities on the basis of ancestry

or any characteristic listed or defined in Section 11135 of the Government Code.

(b) A club described in subdivision (a) holding an alcoholic beverage license pursuant to Division 9 (commencing with Section 23000) of the Business and Professions Code, except a club holding an alcoholic beverage license pursuant to Section 23425 thereof, shall provide on each receipt furnished to a taxpayer a printed statement as follows:

"The expenditures covered by this receipt are nondeductible for state income tax purposes or franchise tax purposes."

(c) For purposes of this section:

(1) "Expenses" means those expenses otherwise deductible under Section 162(a) of the Internal Revenue Code, except for subdivision (a), and includes, but is not limited to, club membership dues and assessments, food and beverage expenses, expenses for services furnished by the club, and reimbursements or salary adjustments to officers or employees for any of the preceding expenses.

(2) "Club" means a club as defined in Division 9 (commencing with Section 23000) of the Business and Professions Code, except a club as defined in Section 23425 thereof.

SEC. 47. Section 24343.2 of the Revenue and Taxation Code is amended to read:

24343.2. Whereas, the people of the State of California desire to promote and achieve tax equity and fairness among all the state's citizens and further desire to conform to the public policy of nondiscrimination, the Legislature hereby enacts the following for these reasons and for no other purpose:

(a) No deduction shall be allowed under Section 24343 for expenses incurred by a taxpayer with respect to expenditures made at, or payments made to, a club which restricts membership or the use of its services or facilities on the basis of ancestry or any characteristic listed or defined in Section 11135 of the Government Code.

(b) A club described in subdivision (a) holding an alcoholic beverage license pursuant to Division 9 (commencing with Section 23000) of the Business and Professions Code, except a club holding an alcoholic beverage license pursuant to Section 23425 thereof, shall provide on each receipt furnished to a taxpayer a printed statement as follows:

"The expenditures covered by this receipt are nondeductible for state income tax purposes or franchise tax purposes."

(c) For purposes of this section:

(1) "Expenses" means those expenses otherwise deductible under Section 24343, except for subdivision (a), and includes, but is not limited to, club membership dues and assessments, food and beverage expenses,

expenses for services furnished by the club, and reimbursements or salary adjustments to officers or employees for any of the preceding expenses.

(2) "Club" means a club as defined in Division 9 (commencing with Section 23000) of the Business and Professions Code, except a club as defined in Section 23425 thereof.

SEC. 48. Section 4666 of the Welfare and Institutions Code is amended to read:

4666. No regional center shall conduct any meeting, conference, or other function in any facility that prohibits the admittance of any person, or persons, on the basis of ancestry or any characteristic listed or defined in Section 11135 of the Government Code.

SEC. 49. Section 5348 of the Welfare and Institutions Code is amended to read:

5348. (a) For purposes of subdivision (e) of Section 5346, any county that chooses to provide assisted outpatient treatment services pursuant to this article shall offer assisted outpatient treatment services including, but not limited to, all of the following:

(1) Community-based, mobile, multidisciplinary, highly trained mental health teams that use high staff-to-client ratios of no more than 10 clients per team member for those subject to court-ordered services pursuant to Section 5346.

(2) A service planning and delivery process that includes the following:

(A) Determination of the numbers of persons to be served and the programs and services that will be provided to meet their needs. The local director of mental health shall consult with the sheriff, the police chief, the probation officer, the mental health board, contract agencies, and family, client, ethnic, and citizen constituency groups as determined by the director.

(B) Plans for services, including outreach to families whose severely mentally ill adult is living with them, design of mental health services, coordination and access to medications, psychiatric and psychological services, substance abuse services, supportive housing or other housing assistance, vocational rehabilitation, and veterans' services. Plans shall also contain evaluation strategies, that shall consider cultural, linguistic, gender, age, and special needs of minorities and those based on any characteristic listed or defined in Section 11135 of the Government Code in the target populations. Provision shall be made for staff with the cultural background and linguistic skills necessary to remove barriers to mental health services as a result of having limited-English-speaking ability and cultural differences. Recipients of outreach services may include families, the public, primary care physicians, and others who are likely to come into contact with individuals who may be suffering

from an untreated severe mental illness who would be likely to become homeless if the illness continued to be untreated for a substantial period of time. Outreach to adults may include adults voluntarily or involuntarily hospitalized as a result of a severe mental illness.

(C) Provisions for services to meet the needs of persons who are physically disabled.

(D) Provision for services to meet the special needs of older adults.

(E) Provision for family support and consultation services, parenting support and consultation services, and peer support or self-help group support, where appropriate.

(F) Provision for services to be client-directed and that employ psychosocial rehabilitation and recovery principles.

(G) Provision for psychiatric and psychological services that are integrated with other services and for psychiatric and psychological collaboration in overall service planning.

(H) Provision for services specifically directed to seriously mentally ill young adults 25 years of age or younger who are homeless or at significant risk of becoming homeless. These provisions may include continuation of services that would still be received through other funds had eligibility not been terminated as a result of age.

(I) Services reflecting special needs of women from diverse cultural backgrounds, including supportive housing that accepts children, personal services coordinator therapeutic treatment, and substance treatment programs that address gender specific trauma and abuse in the lives of persons with mental illness, and vocational rehabilitation programs that offer job training programs free of gender bias and sensitive to the needs of women.

(J) Provision for housing for clients that is immediate, transitional, permanent, or all of these.

(K) Provision for clients who have been suffering from an untreated severe mental illness for less than one year, and who do not require the full range of services, but are at risk of becoming homeless unless a comprehensive individual and family support services plan is implemented. These clients shall be served in a manner that is designed to meet their needs.

(3) Each client shall have a clearly designated mental health personal services coordinator who may be part of a multidisciplinary treatment team who is responsible for providing or assuring needed services. Responsibilities include complete assessment of the client's needs, development of the client's personal services plan, linkage with all appropriate community services, monitoring of the quality and follow through of services, and necessary advocacy to ensure each client receives those services which are agreed to in the personal services plan. Each

client shall participate in the development of his or her personal services plan, and responsible staff shall consult with the designated conservator, if one has been appointed, and, with the consent of the client, shall consult with the family and other significant persons as appropriate.

(4) The individual personal services plan shall ensure that persons subject to assisted outpatient treatment programs receive age, gender, and culturally appropriate services, to the extent feasible, that are designed to enable recipients to:

(A) Live in the most independent, least restrictive housing feasible in the local community, and, for clients with children, to live in a supportive housing environment that strives for reunification with their children or assists clients in maintaining custody of their children as is appropriate.

(B) Engage in the highest level of work or productive activity appropriate to their abilities and experience.

(C) Create and maintain a support system consisting of friends, family, and participation in community activities.

(D) Access an appropriate level of academic education or vocational training.

(E) Obtain an adequate income.

(F) Self-manage their illnesses and exert as much control as possible over both the day-to-day and long-term decisions that affect their lives.

(G) Access necessary physical health care and maintain the best possible physical health.

(H) Reduce or eliminate serious antisocial or criminal behavior, and thereby reduce or eliminate their contact with the criminal justice system.

(I) Reduce or eliminate the distress caused by the symptoms of mental illness.

(J) Have freedom from dangerous addictive substances.

(5) The individual personal services plan shall describe the service array that meets the requirements of paragraph (4), and to the extent applicable to the individual, the requirements of paragraph (2).

(b) Any county that provides assisted outpatient treatment services pursuant to this article also shall offer the same services on a voluntary basis.

(c) Involuntary medication shall not be allowed absent a separate order by the court pursuant to Sections 5332 to 5336, inclusive.

(d) Each county that operates an assisted outpatient treatment program pursuant to this article shall provide data to the State Department of Mental Health and, based on the data, the department shall report to the Legislature on or before May 1 of each year in which the county provides services pursuant to this article. The report shall include, at a minimum, an evaluation of the effectiveness of the strategies employed by each

program operated pursuant to this article in reducing homelessness and hospitalization of persons in the program and in reducing involvement with local law enforcement by persons in the program. The evaluation and report shall also include any other measures identified by the department regarding persons in the program and all of the following, based on information that is available:

(1) The number of persons served by the program and, of those, the number who are able to maintain housing and the number who maintain contact with the treatment system.

(2) The number of persons in the program with contacts with local law enforcement, and the extent to which local and state incarceration of persons in the program has been reduced or avoided.

(3) The number of persons in the program participating in employment services programs, including competitive employment.

(4) The days of hospitalization of persons in the program that have been reduced or avoided.

(5) Adherence to prescribed treatment by persons in the program.

(6) Other indicators of successful engagement, if any, by persons in the program.

(7) Victimization of persons in the program.

(8) Violent behavior of persons in the program.

(9) Substance abuse by persons in the program.

(10) Type, intensity, and frequency of treatment of persons in the program.

(11) Extent to which enforcement mechanisms are used by the program, when applicable.

(12) Social functioning of persons in the program.

(13) Skills in independent living of persons in the program.

(14) Satisfaction with program services both by those receiving them and by their families, when relevant.

SEC. 50. Section 5806 of the Welfare and Institutions Code is amended to read:

5806. The State Department of Mental Health shall establish service standards that ensure that members of the target population are identified, and services provided to assist them to live independently, work, and reach their potential as productive citizens. The department shall provide annual oversight of grants issued pursuant to this part for compliance with these standards. These standards shall include, but are not limited to, all of the following:

(a) A service planning and delivery process that is target population based and includes the following:

(1) Determination of the numbers of clients to be served and the programs and services that will be provided to meet their needs. The

local director of mental health shall consult with the sheriff, the police chief, the probation officer, the mental health board, contract agencies, and family, client, ethnic, and citizen constituency groups as determined by the director.

(2) Plans for services, including outreach to families whose severely mentally ill adult is living with them, design of mental health services, coordination and access to medications, psychiatric and psychological services, substance abuse services, supportive housing or other housing assistance, vocational rehabilitation, and veterans' services. Plans shall also contain evaluation strategies, that shall consider cultural, linguistic, gender, age, and special needs of minorities in the target populations. Provision shall be made for staff with the cultural background and linguistic skills necessary to remove barriers to mental health services due to limited-English-speaking ability and cultural differences. Recipients of outreach services may include families, the public, primary care physicians, and others who are likely to come into contact with individuals who may be suffering from an untreated severe mental illness who would be likely to become homeless if the illness continued to be untreated for a substantial period of time. Outreach to adults may include adults voluntarily or involuntarily hospitalized as a result of a severe mental illness.

(3) Provisions for services to meet the needs of target population clients who are physically disabled.

(4) Provision for services to meet the special needs of older adults.

(5) Provision for family support and consultation services, parenting support and consultation services, and peer support or self-help group support, where appropriate for the individual.

(6) Provision for services to be client-directed and that employ psychosocial rehabilitation and recovery principles.

(7) Provision for psychiatric and psychological services that are integrated with other services and for psychiatric and psychological collaboration in overall service planning.

(8) Provision for services specifically directed to seriously mentally ill young adults 25 years of age or younger who are homeless or at significant risk of becoming homeless. These provisions may include continuation of services that would still be received through other funds had eligibility not been terminated due to age.

(9) Services reflecting special needs of women from diverse cultural backgrounds, including supportive housing that accepts children, personal services coordinator therapeutic treatment, and substance treatment programs that address gender specific trauma and abuse in the lives of persons with mental illness, and vocational rehabilitation programs that

offer job training programs free of gender bias and sensitive to the needs of women.

(10) Provision for housing for clients that is immediate, transitional, permanent, or all of these.

(11) Provision for clients who have been suffering from an untreated severe mental illness for less than one year, and who do not require the full range of services but are at risk of becoming homeless unless a comprehensive individual and family support services plan is implemented. These clients shall be served in a manner that is designed to meet their needs.

(b) Each client shall have a clearly designated mental health personal services coordinator who may be part of a multidisciplinary treatment team who is responsible for providing or assuring needed services. Responsibilities include complete assessment of the client's needs, development of the client's personal services plan, linkage with all appropriate community services, monitoring of the quality and follow through of services, and necessary advocacy to ensure each client receives those services which are agreed to in the personal services plan. Each client shall participate in the development of his or her personal services plan, and responsible staff shall consult with the designated conservator, if one has been appointed, and, with the consent of the client, consult with the family and other significant persons as appropriate.

(c) The individual personal services plan shall ensure that members of the target population involved in the system of care receive age, gender, and culturally appropriate services or appropriate services based on any characteristic listed or defined in Section 11135 of the Government Code, to the extent feasible, that are designed to enable recipients to:

(1) Live in the most independent, least restrictive housing feasible in the local community, and for clients with children, to live in a supportive housing environment that strives for reunification with their children or assists clients in maintaining custody of their children as is appropriate.

(2) Engage in the highest level of work or productive activity appropriate to their abilities and experience.

(3) Create and maintain a support system consisting of friends, family, and participation in community activities.

(4) Access an appropriate level of academic education or vocational training.

(5) Obtain an adequate income.

(6) Self-manage their illness and exert as much control as possible over both the day-to-day and long-term decisions which affect their lives.

(7) Access necessary physical health care and maintain the best possible physical health.

(8) Reduce or eliminate serious antisocial or criminal behavior and thereby reduce or eliminate their contact with the criminal justice system.

(9) Reduce or eliminate the distress caused by the symptoms of mental illness.

(10) Have freedom from dangerous addictive substances.

(d) The individual personal services plan shall describe the service array that meets the requirements of subdivision (c), and to the extent applicable to the individual, the requirements of subdivision (a).

SEC. 50.5. Section 5806 of the Welfare and Institutions Code is amended to read:

5806. The State Department of Mental Health shall establish service standards that ensure that members of the target population are identified, and services provided to assist them to live independently, work, and reach their potential as productive citizens. The department shall provide annual oversight of grants issued pursuant to this part for compliance with these standards. These standards shall include, but are not limited to, all of the following:

(a) A service planning and delivery process that is target population based and includes the following:

(1) Determination of the numbers of clients to be served and the programs and services that will be provided to meet their needs. The local director of mental health shall consult with the sheriff, the police chief, the probation officer, the mental health board, contract agencies, and family, client, ethnic and citizen constituency groups as determined by the director.

(2) Plans for services, including outreach to individuals who will be eligible for services under this section after successfully completing parole, mental health courts, and families whose severely mentally ill adult is living with them, design of mental health services, coordination and access to medications, psychiatric and psychological services, substance abuse services, supportive housing or other housing assistance, vocational rehabilitation, and veterans' services. Plans shall also contain evaluation strategies, that shall consider cultural, linguistic, gender, age, and special needs of minorities in the target populations. Provision shall be made for staff with the cultural background and linguistic skills necessary to remove barriers to mental health services due to limited-English-speaking ability and cultural differences. Recipients of outreach services may include families, the public, primary care physicians, police, sheriffs, judges, and others who are likely to come into contact with individuals who may be suffering from an untreated severe mental illness who would be likely to become homeless if the illness continued to be untreated for a substantial period of time. Outreach

to adults may include adults voluntarily or involuntarily hospitalized as a result of a severe mental illness.

(3) Provisions for services to meet the needs of target population clients who are physically disabled.

(4) Provision for services to meet the special needs of older adults.

(5) Provision for family support and consultation services, parenting support and consultation services, and peer support or self-help group support, where appropriate for the individual.

(6) Provision for services to be client-directed and that employ psychosocial rehabilitation and recovery principles.

(7) Provision for psychiatric and psychological services that are integrated with other services and for psychiatric and psychological collaboration in overall service planning.

(8) Provision for services specifically directed to seriously mentally ill young adults 25 years of age or younger who are homeless or at significant risk of becoming homeless. These provisions may include continuation of services that would still be received through other funds had eligibility not been terminated due to age.

(9) Services reflecting special needs of women from diverse cultural backgrounds, including supportive housing that accepts children, personal services coordinator therapeutic treatment, and substance abuse treatment programs that address gender specific trauma and abuse in the lives of persons with mental illness, and vocational rehabilitation programs that offer job training programs free of gender bias and sensitive to the needs of women.

(10) Provision for housing for clients that is immediate, transitional, permanent, or all of these.

(11) Provision for clients who have been suffering from an untreated severe mental illness for less than one year, and who do not require the full range of services but are at risk of becoming homeless unless a comprehensive individual and family support services plan is implemented. These clients shall be served in a manner that is designed to meet their needs.

(b) Each client shall have a clearly designated mental health personal services coordinator who may be part of a multidisciplinary treatment team who is responsible for providing or assuring needed services. Responsibilities include complete assessment of the client's needs, development of the client's personal services plan, linkage with all appropriate community services, monitoring of the quality and followthrough of services, and necessary advocacy to ensure each client receives those services which are agreed to in the personal services plan. Each client shall participate in the development of his or her personal services plan, and responsible staff shall consult with the designated

conservator, if one has been appointed, and, with the consent of the client, consult with the family and other significant persons as appropriate.

(c) The individual personal services plan shall ensure that members of the target population involved in the system of care receive age, gender, and culturally appropriate services or appropriate services based on any characteristic listed or defined in Section 11135 of the Government Code, to the extent feasible, that are designed to enable recipients to:

(1) Live in the most independent, least restrictive housing feasible in the local community, and, for clients with children, to live in a supportive housing environment that strives for reunification with their children or assists clients in maintaining custody of their children as is appropriate.

(2) Engage in the highest level of work or productive activity appropriate to their abilities and experience.

(3) Create and maintain a support system consisting of friends, family, and participation in community activities.

(4) Access an appropriate level of academic education or vocational training.

(5) Obtain an adequate income.

(6) Self-manage their illness and exert as much control as possible over both the day-to-day and long-term decisions which affect their lives.

(7) Access necessary physical health care and maintain the best possible physical health.

(8) Reduce or eliminate serious antisocial or criminal behavior and thereby reduce or eliminate their contact with the criminal justice system.

(9) Reduce or eliminate the distress caused by the symptoms of mental illness.

(10) Have freedom from dangerous addictive substances.

(d) The individual personal services plan shall describe the service array that meets the requirements of subdivision (c), and to the extent applicable to the individual, the requirements of subdivision (a).

SEC. 51. Section 10000 of the Welfare and Institutions Code is amended to read:

10000. The purpose of this division is to provide for protection, care, and assistance to the people of the state in need thereof, and to promote the welfare and happiness of all of the people of the state by providing appropriate aid and services to all of its needy and distressed. It is the legislative intent that aid shall be administered and services provided promptly and humanely, with due regard for the preservation of family life, and without discrimination on account of ancestry, marital status, political affiliation, or any characteristic listed or defined in Section 11135 of the Government Code. That aid shall be so administered and

services so provided, to the extent not in conflict with federal law, as to encourage self-respect, self-reliance, and the desire to be a good citizen, useful to society.

SEC. 52. Section 16522.1 of the Welfare and Institutions Code is amended to read:

16522.1. In order to be licensed pursuant to Section 1559.110 of the Health and Safety Code, an applicant shall obtain certification from the county department of social services or the county probation department that the facility program provides all of the following:

(a) (1) Admission criteria for participants in the program, including, but not limited to, consideration of the applicant's age, previous placement history, delinquency history, history of drug or alcohol abuse, current strengths, level of education, mental health history, medical history, prospects for successful participation in the program, and work experience. Youth who are wards of the court described in Section 602 and youth receiving psychotropic medications shall be eligible for consideration to participate in the program, and shall not be automatically excluded due to these factors.

(2) The department shall review the admission criteria to ensure that the criteria are sufficient to protect participants and that they do not discriminate on the basis of any characteristic listed or defined in Section 11135 of the Government Code.

(b) Strict employment criteria that include a consideration of the employee's age, drug or alcohol history, and experience in working with persons in this age group.

(c) A training program designed to educate employees who work directly with participants about the characteristics of persons in this age group placed in long-term care settings, and designed to ensure that these employees are able to adequately supervise and counsel participants and to provide them with training in independent living skills.

(d) A detailed plan for monitoring the placement of persons under the licensee's care.

(e) A contract between the participating person and the licensee that specifically sets out the requirements for each party, and in which the licensee and the participant agree to the requirements of this article.

(f) An allowance to be provided to each participant in the program. In the case of a participant living independently, this allowance shall be sufficient for the participant to purchase food and other necessities.

(g) A system for payment for utilities, telephone, and rent.

(h) Policies regarding all of the following:

(1) Education requirements.

(2) Work expectations.

(3) Savings requirements.

(4) Personal safety.
(5) Visitors including, but not limited to, visitation by the placement auditor pursuant to subdivision (d).
(6) Emergencies.
(7) Medical problems.
(8) Disciplinary measures.
(9) Child care.
(10) Pregnancy.
(11) Curfew.
(12) Apartment cleanliness.
(13) Use of utilities and telephone.
(14) Budgeting.
(15) Care of furnishings.
(16) Decorating of apartments.
(17) Cars.
(18) Lending or borrowing money.
(19) Unauthorized purchases.
(20) Dating.
(21) Grounds for termination that may include, but shall not be limited to, illegal activities or harboring runaways.

(i) Apartment furnishings, and a policy on disposition of the furnishings when the participant completes the program.

(j) Evaluation of the participant's progress in the program and reporting to the independent living program and to the department regarding that progress.

(k) A linkage to the federal Job Training and Partnership Act (29 U.S.C. Sec. 1501 et seq.) program administered in the local area to provide employment training to eligible participants.

SEC. 52.5. Section 16522.1 of the Welfare and Institutions Code is amended to read:

16522.1. In order to be licensed pursuant to Section 1559.110 of the Health and Safety Code, an applicant shall obtain certification from the county department of social services or the county probation department that the facility program provides all of the following:

(a) (1) Admission criteria for participants in the program, including, but not limited to, consideration of the applicant's age, previous placement history, delinquency history, history of drug or alcohol abuse, current strengths, level of education, mental health history, medical history, prospects for successful participation in the program, and work experience. Youth who are wards of the court described in Section 602 and youth receiving psychotropic medications shall be eligible for consideration to participate in the program, and shall not be automatically excluded due to these factors.

(2) The department shall review the admission criteria to ensure that the criteria are sufficient to protect participants and that they do not discriminate on the basis of any characteristic listed or defined in Section 11135 of the Government Code.

(b) Strict employment criteria that include a consideration of the employee's age, drug or alcohol history, and experience in working with persons in this age group.

(c) A training program designed to educate employees who work directly with participants about the characteristics of persons in this age group placed in long-term care settings, and designed to ensure that these employees are able to adequately supervise and counsel participants and to provide them with training in independent living skills.

(d) A detailed plan for monitoring the placement of persons under the licensee's care.

(e) A contract between the participating person and the licensee that specifically sets out the requirements for each party, and in which the licensee and the participant agree to the requirements of this article.

(f) An allowance to be provided to each participant in the program. In the case of a participant living independently, this allowance shall be sufficient for the participant to purchase food and other necessities.

(g) A system for payment for utilities, telephone, and rent.

(h) Policies regarding all of the following:

(1) Education requirements.

(2) Work expectations.

(3) Savings requirements.

(4) Personal safety.

(5) Visitors including, but not limited to, visitation by the placement auditor pursuant to subdivision (d).

(6) Emergencies.

(7) Medical problems.

(8) Disciplinary measures.

(9) Child care.

(10) Pregnancy.

(11) Curfew.

(12) Apartment cleanliness.

(13) Use of utilities and telephone.

(14) Budgeting.

(15) Care of furnishings.

(16) Decorating of apartments.

(17) Cars.

(18) Lending or borrowing money.

(19) Unauthorized purchases.

(20) Dating.

(21) Grounds for termination that may include, but shall not be limited to, illegal activities or harboring runaways.

(i) Apartment furnishings, and a policy on disposition of the furnishings when the participant completes the program.

(j) Evaluation of the participant's progress in the program and reporting to the independent living program and to the department regarding that progress.

(k) A linkage to the federal Job Training and Partnership Act (29 U.S.C. Sec. 1501 et seq.) program administered in the local area to provide employment training to eligible participants and a linkage to information about state employment opportunities under the Emancipated Foster Youth Examination and Appointment Program (Chapter 5.6 (commencing with Section 19245) of Part 2 of Division 5 of Title 2 of the Government Code).

SEC. 53. Section 18907 of the Welfare and Institutions Code is amended to read:

18907. In the determination of eligibility for food stamps, there shall be no discrimination against any household by reason of marital status, political belief, or any characteristic listed or defined in Section 11135 of the Government Code to the extent not in conflict with federal law.

SEC. 54. (a) The changes to Section 66030 of the Education Code proposed by this bill shall not become operative if (1) SB 777 is enacted and becomes effective on or before January 1, 2008, (2) each bill amends Section 66030 of the Education Code, and (3) this bill is enacted after SB 777.

(b) The changes to Section 66251 of the Education Code proposed by this bill shall not become operative if (1) SB 777 is enacted and becomes effective on or before January 1, 2008, (2) each bill amends Section 66251 of the Education Code, and (3) this bill is enacted after SB 777.

(c) The changes to Section 66292 of the Education Code proposed by this bill shall not become operative if (1) SB 777 is enacted and becomes effective on or before January 1, 2008, (2) each bill amends Section 66292 of the Education Code, and (3) this bill is enacted after SB 777.

(d) The changes to Section 66292.1 of the Education Code proposed by this bill shall not become operative if (1) SB 777 is enacted and becomes effective on or before January 1, 2008, (2) each bill amends Section 66292.1 of the Education Code, and (3) this bill is enacted after SB 777.

(e) The changes to Section 66292.2 of the Education Code proposed by this bill shall not become operative if (1) SB 777 is enacted and becomes effective on or before January 1, 2008, (2) each bill amends

Section 66292.2 of the Education Code, and (3) this bill is enacted after SB 777.

(f) The changes to Section 69535 of the Education Code proposed by this bill shall not become operative if (1) SB 777 is enacted and becomes effective on or before January 1, 2008, (2) each bill amends Section 69535 of the Education Code, and (3) this bill is enacted after SB 777.

(g) The changes to Section 72011 of the Education Code proposed by this bill shall not become operative if (1) SB 777 is enacted and becomes effective on or before January 1, 2008, (2) each bill amends Section 72011 of the Education Code, and (3) this bill is enacted after SB 777.

(h) The changes to Section 72014 of the Education Code proposed by this bill shall not become operative if (1) SB 777 is enacted and becomes effective on or before January 1, 2008, (2) each bill amends Section 72014 of the Education Code, and (3) this bill is enacted after SB 777.

(i) The changes to Section 89757 of the Education Code proposed by this bill shall not become operative if (1) SB 777 is enacted and becomes effective on or before January 1, 2008, (2) each bill amends Section 89757 of the Education Code, and (3) this bill is enacted after SB 777.

(j) The changes to Section 92150 of the Education Code proposed by this bill shall not become operative if (1) SB 777 is enacted and becomes effective on or before January 1, 2008, (2) each bill amends Section 92150 of the Education Code, and (3) this bill is enacted after SB 777.

SEC. 55. Section 21.5 of this bill incorporates amendments to Section 66270 of the Education Code proposed by both this bill and SB 777. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2008, (2) each bill amends Section 66270 of the Education Code, and (3) this bill is enacted after SB 777, in which case Section 21 of this bill shall not become operative.

SEC. 56. Section 50.5 of this bill incorporates amendments to Section 5806 of the Welfare and Institutions Code proposed by both this bill and SB 851. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2008, (2) each bill amends Section 5806 of the Welfare and Institutions Code, and (3) this bill is enacted after SB 851, in which case Section 50 of this bill shall not become operative.

SEC. 57. Section 52.5 of this bill incorporates amendments to Section 16522.1 of the Welfare and Institutions Code proposed by both this bill and AB 671. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2008, (2) each bill amends Section 16522.1 of the Welfare and Institutions Code, and (3) this bill

is enacted after AB 671, in which case Section 52 of this bill shall not become operative.

CHAPTER 569

An act to amend Sections 200, 220, 235, 260, 14058, 18701, 18710, 18720, 19323, 35316, 35351, 39830, 44253.2, 44253.3, 44866, 46192, 47605, 51004, 51500, 51802, 60800, 66030, 66210, 66250, 66251, 66270, 66292, 66292.1, 66292.2, 69535, 72011, 72012, 72014, 82305.6, 89757, 92150, and 94600 of, to amend and renumber Sections 220.5 and 66270.5 of, to amend, renumber, and add Section 210.1 of, to add Sections 210.7, 212.1, 212.3, 212.6, 219, 66260.5, 66260.7, 66261.5, 66261.7, 66262.7, and 66269 to, to repeal Section 72013 of, and to repeal and add Sections 212 and 66262 of, the Education Code, relating to education.

[Approved by Governor October 12, 2007. Filed with Secretary of State October 12, 2007.]

The people of the State of California do enact as follows:

SECTION 1. This act shall be known, and may be cited, as the California Student Civil Rights Act.

SEC. 1.5. Section 200 of the Education Code is amended to read:

200. It is the policy of the State of California to afford all persons in public schools, regardless of their disability, gender, nationality, race or ethnicity, religion, sexual orientation, or any other characteristic that is contained in the definition of hate crimes set forth in Section 422.55 of the Penal Code, equal rights and opportunities in the educational institutions of the state. The purpose of this chapter is to prohibit acts that are contrary to that policy and to provide remedies therefor.

SEC. 2. Section 210.1 of the Education Code is amended and renumbered to read:

210.3. "Educational institution" means a public or private preschool, elementary, or secondary school or institution; the governing board of a school district; or any combination of school districts or counties recognized as the administrative agency for public elementary or secondary schools.

SEC. 3. Section 210.1 is added to the Education Code, to read:

210.1. "Disability" includes mental and physical disability as defined in Section 12926 of the Government Code.

SEC. 4. Section 210.7 is added to the Education Code, to read:

210.7. "Gender" means sex, and includes a person's gender identity and gender related appearance and behavior whether or not stereotypically associated with the person's assigned sex at birth.

SEC. 5. Section 212 of the Education Code is repealed.

SEC. 6. Section 212 is added to the Education Code, to read:

212. "Nationality" includes citizenship, country of origin, and national origin.

SEC. 7. Section 212.1 is added to the Education Code, to read:

212.1. "Race or ethnicity" includes ancestry, color, ethnic group identification, and ethnic background.

SEC. 8. Section 212.3 is added to the Education Code, to read:

212.3. "Religion" includes all aspects of religious belief, observance, and practice and includes agnosticism and atheism.

SEC. 9. Section 212.6 is added to the Education Code, to read:

212.6. "Sexual orientation" means heterosexuality, homosexuality, or bisexuality.

SEC. 10. Section 219 is added to the Education Code, to read:

219. Disability, gender, nationality, race or ethnicity, religion, sexual orientation, or any other characteristic contained in the definition of hate crimes set forth in Section 422.55 of the Penal Code includes a perception that the person has any of those characteristics or that the person is associated with a person who has, or is perceived to have, any of those characteristics.

SEC. 11. Section 220 of the Education Code is amended to read:

220. No person shall be subjected to discrimination on the basis of disability, gender, nationality, race or ethnicity, religion, sexual orientation, or any other characteristic that is contained in the definition of hate crimes set forth in Section 422.55 of the Penal Code in any program or activity conducted by an educational institution that receives, or benefits from, state financial assistance or enrolls pupils who receive state student financial aid.

SEC. 12. Section 220.5 of the Education Code is amended and renumbered to read:

221. This article shall not apply to an educational institution that is controlled by a religious organization if the application would not be consistent with the religious tenets of that organization.

SEC. 13. Section 235 of the Education Code is amended to read:

235. There shall be no discrimination on the basis of the characteristics listed in Section 220 in any aspect of the operation of alternative schools or charter schools.

SEC. 14. Section 260 of the Education Code is amended to read:

260. The governing board of a school district shall have the primary responsibility for ensuring that school district programs and activities

are free from discrimination based on age and the characteristics listed in Section 220 and for monitoring compliance with any and all rules and regulations promulgated pursuant to Section 11138 of the Government Code.

SEC. 15. Section 14058 of the Education Code is amended to read:

14058. (a) For all adults with disabilities educated by the county superintendent of schools, for all secondary schools maintained in juvenile halls, juvenile homes, and juvenile camps by the county superintendent of schools, and for all pupils enrolled in grades 9 to 12, inclusive, in opportunity schools and classes and all continuation schools and classes maintained by the county superintendent of schools, the Superintendent shall allow the same amount as he or she would compute for the foundation program of a high school district under Section 41712.

(b) Notwithstanding subdivision (a), the total of allowances for education of adults with disabilities in classes established by the county superintendent of schools pursuant to Section 52570 or 78440 shall not exceed fifty thousand dollars ($50,000) in any one fiscal year. The Superintendent shall establish a system of priorities that he or she shall by rule or regulation adopt that shall give highest priority to those counties in which no program or an insufficient program for the education of adults with disabilities is provided by the school districts within the county, in order to comply with the limitation prescribed by this section.

SEC. 16. Section 18701 of the Education Code is amended to read:

18701. The Legislature finds and declares that it is in the interest of the people of the state to insure that all people have free and convenient access to all library resources and services that might enrich their lives, regardless of where they live or of the tax base of their local government.

This finding is based on the recognition that:

(a) The public library is a primary source of information, recreation, and education to persons of all ages, any location, or any economic circumstance.

(b) The expansion of knowledge and the increasing complexity of our society create needs for materials and information that go beyond the ability of any one library to provide.

(c) The public libraries of California are supported primarily by local taxes. The ability of local governments to provide adequate service is dependent on the taxable wealth of each local jurisdiction and varies widely throughout the state.

(d) Public libraries are unable to bear the greater costs of meeting the exceptional needs of many residents, including people with disabilities, non-English-speaking and limited-English-speaking persons, those who are confined to home or in an institution, and those who are economically disadvantaged.

(e) The effective sharing of resources and services among the libraries of California requires an ongoing commitment by the state to compensate libraries for services beyond their clientele.

(f) The sharing of services and resources is most efficient when a common database is available to provide information on where materials can be found.

SEC. 17. Section 18710 of the Education Code is amended to read:

18710. As used in this chapter, unless the context otherwise indicates or unless specific exception is made:

(a) "Academic library" means a library established and maintained by a college or university to meet the needs of its students and faculty, and others by agreement.

(b) "Act" means the California Library Services Act.

(c) "Cooperative library system" means a public library system that consists of two or more jurisdictions entering into a written agreement to implement a regional program in accordance with this chapter, and which, as of the effective date of this chapter, was designated a library system under the Public Library Services Act of 1963 or was a successor to such a library system.

(d) "Direct loan" means the lending of a book or other item directly to a borrower.

(e) "Equal access" means the right of the residents of jurisdictions that are members of a cooperative library system to use on an equal basis with one another the services and loan privileges of any and all other members of the same system.

(f) "Independent public library" means a public library not a member of a system.

(g) "Interlibrary loan" means the lending of a book or other item from one library to another as the result of a user request for the item.

(h) "Interlibrary reference" means the providing of information by one library or reference center to another library or reference center as the result of a user request for the information.

(i) "Jurisdiction" means a county, city and county, city, or any district that is authorized by law to provide public library services and that operates a public library.

(j) "Libraries for institutionalized persons" means libraries maintained by institutions for the purpose of serving their resident populations.

(k) "Net imbalance" means the disproportionate cost incurred under universal borrowing or equal access when a library directly lends a greater number of items to users from outside its jurisdiction than its residents directly borrow from libraries of other jurisdictions.

(*l*) "Public library" means a library, or two or more libraries, that is operated by a single public jurisdiction and that serves its residents free of charge.

(m) "School library" means an organized collection of printed and audiovisual materials that satisfies all of the following criteria:

(1) Is administered as a unit.

(2) Is located in a designated place.

(3) Makes printed, audiovisual, and other materials as well as necessary equipment and services of a staff accessible to elementary and secondary school pupils and teachers.

(n) "Special library" means one maintained by an association, government service, research institution, learned society, professional association, museum, business firm, industrial enterprise, chamber of commerce, or other organized group, the greater part of their collections being in a specific field or subject, e.g., natural sciences, economics, engineering, law, and history.

(o) "Special Services Programs" means a project establishing or improving service to the underserved of all ages.

(p) "State board" means the California Library Services Board.

(q) "System" means a cooperative library system.

(r) "Underserved" means any population segment with exceptional service needs not adequately met by traditional library service patterns; including, but not limited to, those persons who are geographically isolated, economically disadvantaged, functionally illiterate, of non-English-speaking or limited-English-speaking ability, shut-in, or institutionalized, or who are persons with disabilities.

(s) "Universal borrowing" means the extension by a public library of its direct loan privileges to the eligible borrowers of all other public libraries.

SEC. 18. Section 18720 of the Education Code is amended to read:

18720. (a) There is hereby established in the state government the California Library Services Board, to consist of 13 members. The Governor shall appoint nine members of the board. Three of the Governor's appointments shall be representative of laypersons, one of whom shall represent people with disabilities, one of whom shall represent limited- and non-English-speaking persons, and one of whom shall represent economically disadvantaged persons.

(b) The Governor shall also appoint six members of the board, each of whom shall represent one of the following categories: school libraries, libraries for institutionalized persons, public library trustees or commissioners, public libraries, special libraries, and academic libraries.

(c) The Legislature shall appoint the remaining four public members from persons who are not representative of categories mentioned in this

section. Two shall be appointed by the Senate Rules Committee and two shall be appointed by the Speaker of the Assembly.

(d) The terms of office of members of the board shall be for four years and shall begin on January 1 of the year in which the respective terms are to start.

SEC. 19. Section 19323 of the Education Code is amended to read:

19323. The State Librarian shall make available on a loan basis to legally blind persons, or to persons with a disability that prevents them from reading conventional printed materials, in the state tape recordings of books and other related materials. The tape recordings shall be selected by the State Library on the same basis as the State Library's general program for providing library materials to legally blind readers.

SEC. 20. Section 35316 of the Education Code is amended to read:

35316. An applicant for a loan from the fund shall make application therefor in accordance with reasonable rules and regulations established by the governing board of the school district, provided that the rules and regulations shall not include any conditions limiting eligibility on account of the characteristics listed in Section 220.

SEC. 21. Section 35351 of the Education Code is amended to read:

35351. No public school pupil shall be assigned to or be required to attend a particular school because of the characteristics listed in Section 220.

SEC. 22. Section 39830 of the Education Code is amended to read:

39830. A schoolbus is any motor vehicle designed, used, or maintained for the transportation of a school pupil at or below the grade 12 level to or from a public or private school or to or from public or private school activities, except the following:

(a) A motor vehicle of any type carrying only members of the household of its owner.

(b) A motortruck transporting pupils who are seated only in the passenger compartment, and a passenger vehicle designed for and when actually carrying not more than 10 persons, including the driver, except any vehicle or truck transporting two or more pupils who use wheelchairs.

(c) A motor vehicle operated by a common carrier, or by and under exclusive jurisdiction of a publicly owned or operated transit system, only during the time it is on a scheduled run and is available to the general public or on a run scheduled in response to a request from a pupil who uses a wheelchair, or from a parent of the pupil, for transportation to or from nonschool activities. However, the motor vehicle is designed for and actually carries not more than 16 persons and the driver, is available to eligible persons of the general public, and the school does not provide the requested transportation service.

(d) A school pupil activity bus as defined in Section 39830.1.

(e) A motor vehicle operated by a carrier licensed by the Interstate Commerce Commission that is transporting pupils on a school activity entering or returning to the state from another state or country.

(f) A state-owned motor vehicle being operated by a state employee upon the driveways, paths, parking facilities, or grounds specified in Section 21113 of the Vehicle Code that are under the control of a state hospital under the jurisdiction of the State Department of Developmental Services where the posted speed limit is not more than 20 miles per hour. The motor vehicle may also be operated for a distance of not more than one-quarter mile upon a public street or highway that runs through the grounds of a state hospital under the jurisdiction of the State Department of Developmental Services, if the posted speed limit on the public street or highway is not more than 25 miles per hour and if all traffic is regulated by posted stop signs or official traffic control signals at the points of entry and exit by the motor vehicle.

SEC. 23. Section 44253.2 of the Education Code is amended to read:

44253.2. For purposes of this chapter, the following terms shall have the following meanings, unless the context otherwise requires:

(a) "Instruction for English language development" means instruction designed specifically for limited-English-proficient pupils to develop their listening, speaking, reading, and writing skills in English.

(b) "Specially designed content instruction delivered in English" means instruction in a subject area, delivered in English, that is specially designed to meet the needs of limited-English-proficient pupils.

(c) "Content instruction delivered in the primary language" means instruction in a subject area delivered in the primary language of the pupil.

(d) "Instruction for primary language development" means instruction designed to develop a pupil's listening, speaking, reading, and writing skills in the primary language of the pupil.

(e) "Culture and cultural diversity" means an understanding of human relations, including the following:

(1) The nature and content of culture.

(2) Cross cultural contact and interactions.

(3) Cultural diversity in the United States and California.

(4) Approaches to providing instruction responsive to the diversity of the pupil population.

(5) Recognizing and responding to behavior related to bias based on the characteristics listed in Section 220.

(6) Techniques for the peaceful resolution of conflict.

SEC. 24. Section 44253.3 of the Education Code is amended to read:

44253.3. (a) The commission shall issue a certificate that authorizes the holder to provide all of the following services to limited-English-proficient pupils:

(1) Instruction for English language development in preschool, kindergarten, grades 1 to 12, inclusive, and classes organized primarily for adults, except when the requirement specified in paragraph (1) of subdivision (b) is satisfied by the possession of a children's center instructional permit pursuant to Sections 8363 and 44252.7, a children's center supervision permit pursuant to Section 8363, or a designated subjects teaching credential in adult education pursuant to Section 44260.2. If the requirement specified in paragraph (1) of subdivision (b) is satisfied by the possession of a children's center instructional permit, or a children's center supervision permit, instruction for English language development is limited to the programs authorized by that permit. If the requirement specified in paragraph (1) of subdivision (b) is satisfied by the possession of a designated subjects teaching credential in adult education, instruction for English language development is limited to classes organized primarily for adults.

(2) Specially designed content instruction delivered in English in the subjects and at the levels authorized by the teacher's prerequisite credential or permit used to satisfy the requirement specified in paragraph (1) of subdivision (b).

(b) The minimum requirements for the certificate shall include all of the following:

(1) Possession of a valid California teaching credential, services credential, children's center instructional permit, or children's center supervision permit which credential or permit authorizes the holder to provide instruction to pupils in preschool, kindergarten, any of grades 1 to 12, inclusive, or classes primarily organized for adults, except for any of the following:

(A) Emergency credentials or permits.

(B) Exchange credentials as specified in Section 44333.

(C) District intern credentials as specified in Section 44325.

(D) Sojourn certificated employee credentials as specified in Section 44856.

(E) Teacher education internship credentials as specified in Article 3 (commencing with Section 44450) of Chapter 3.

(2) Passage of one or more examinations that the commission determines are necessary for demonstrating the knowledge and skills required for effective delivery of the services authorized by the certificate.

(3) Completion of at least six semester units, or nine quarter units, of coursework in a second language at a regionally accredited institution of postsecondary education. The commission shall establish minimum

standards for scholarship in the required coursework. The commission shall also establish alternative ways in which the requirement can be satisfied by language-learning experience that creates an awareness of the challenges of second language acquisition and development.

(c) Completion of coursework in human relations in accordance with the commission's standards of program quality and effectiveness that includes, at a minimum, instruction in the following:

(1) The nature and content of culture.

(2) Crosscultural contact and interactions.

(3) Cultural diversity in the United States and California.

(4) Providing instruction responsive to the diversity of the pupil population.

(5) Recognizing and responding to behavior related to bias based on the characteristics listed in Section 220.

(6) Techniques for the peaceful resolution of conflict.

(d) The commission shall establish alternative requirements for a teacher to earn the certificate, which shall be awarded as a supplementary authorization pursuant to subdivision (e) of Section 44225.

(e) A teacher who possesses a credential or permit described in paragraph (1) of subdivision (b) and is able to present a valid out-of-state credential or certificate that authorizes the instruction of English language learners may qualify for the certificate issued under this section by submitting an application and fee to the commission.

(f) The certificate shall remain valid as long as the prerequisite credential or permit specified in paragraph (1) of subdivision (b) remains valid.

SEC. 24.5. Section 44253.3 of the Education Code is amended to read:

44253.3. (a) The commission shall issue a certificate that authorizes the holder to provide all of the following services to limited-English-proficient pupils:

(1) Instruction for English language development in preschool, kindergarten, grades 1 to 12, inclusive, and classes organized primarily for adults, except when the requirement specified in paragraph (1) of subdivision (b) is satisfied by the possession of a children's center instructional permit pursuant to Sections 8363 and 44252.7, a children's center supervision permit pursuant to Section 8363, or a designated subjects teaching credential in adult education pursuant to Section 44260.2. If the requirement specified in paragraph (1) of subdivision (b) is satisfied by the possession of a children's center instructional permit, or a children's center supervision permit, instruction for English language development is limited to the programs authorized by that permit. If the requirement specified in paragraph (1) of subdivision (b) is satisfied by

the possession of a designated subjects teaching credential in adult education, instruction for English language development is limited to classes organized primarily for adults.

(2) Specially designed content instruction delivered in English in the subjects and at the levels authorized by the teacher's prerequisite credential or permit used to satisfy the requirement specified in paragraph (1) of subdivision (b).

(b) The minimum requirements for the certificate shall include all of the following:

(1) Possession of a valid California teaching credential, services credential, visiting faculty permit, children's center instructional permit, or children's center supervision permit which credential or permit authorizes the holder to provide instruction to pupils in preschool, kindergarten, any of grades 1 to 12, inclusive, or classes primarily organized for adults, except for any of the following:

(A) Emergency credentials or permits.

(B) Exchange credentials as specified in Section 44333.

(C) District intern credentials as specified in Section 44325.

(D) Sojourn certificated employee credentials as specified in Section 44856.

(E) Teacher education internship credentials as specified in Article 3 (commencing with Section 44450) of Chapter 3.

(2) Passage of one or more examinations that the commission determines are necessary for demonstrating the knowledge and skills required for effective delivery of the services authorized by the certificate.

(3) Completion of at least six semester units, or nine quarter units, of coursework in a second language at a regionally accredited institution of postsecondary education. The commission shall establish minimum standards for scholarship in the required coursework. The commission shall also establish alternative ways in which the requirement can be satisfied by language-learning experience that creates an awareness of the challenges of second-language acquisition and development.

(c) Completion of coursework in human relations in accordance with the commission's standards of program quality and effectiveness that includes, at a minimum, instruction in the following:

(1) The nature and content of culture.

(2) Crosscultural contact and interactions.

(3) Cultural diversity in the United States and California.

(4) Providing instruction responsive to the diversity of the pupil population.

(5) Recognizing and responding to behavior related to bias based on the characteristics listed in Section 220.

(6) Techniques for the peaceful resolution of conflict.

(d) The commission shall establish alternative requirements for a teacher to earn the certificate, which shall be awarded as a supplementary authorization pursuant to subdivision (e) of Section 44225.

(e) A teacher who possesses a credential or permit described in paragraph (1) of subdivision (b) and is able to present a valid out-of-state credential or certificate that authorizes the instruction of English language learners may qualify for the certificate issued under this section by submitting an application and fee to the commission.

(f) The certificate shall remain valid as long as the prerequisite credential or permit specified in paragraph (1) of subdivision (b) remains valid.

SEC. 25. Section 44866 of the Education Code is amended to read:

44866. The qualifications of a home instructor of pupils with physical disabilities shall be a valid teaching credential or a credential authorizing the teaching of exceptional children in an area of specialized preparation issued by the state board, or the Commission on Teacher Credentialing.

SEC. 26. Section 46192 of the Education Code is amended to read:

46192. Each clock hour of teaching time devoted to the individual instruction of adults with physical disabilities who are patients in a tuberculosis ward or hospital maintained by one or more counties shall count as one day of attendance but no such adult shall be credited with more than one day of attendance in any calendar day.

SEC. 27. Section 47605 of the Education Code is amended to read:

47605. (a) (1) Except as set forth in paragraph (2), a petition for the establishment of a charter school within any school district may be circulated by any one or more persons seeking to establish the charter school. A petition for the establishment of a charter school shall identify a single charter school that will operate within the geographic boundaries of that school district. A charter school may propose to operate at multiple sites within the school district, as long as each location is identified in the charter school petition. The petition may be submitted to the governing board of the school district for review after either of the following conditions are met:

(A) The petition has been signed by a number of parents or legal guardians of pupils that is equivalent to at least one-half of the number of pupils that the charter school estimates will enroll in the school for its first year of operation.

(B) The petition has been signed by a number of teachers that is equivalent to at least one-half of the number of teachers that the charter school estimates will be employed at the school during its first year of operation.

(2) A petition that proposes to convert an existing public school to a charter school that would not be eligible for a loan pursuant to subdivision

(b) of Section 41365 may be circulated by any one or more persons seeking to establish the charter school. The petition may be submitted to the governing board of the school district for review after the petition has been signed by not less than 50 percent of the permanent status teachers currently employed at the public school to be converted.

(3) A petition shall include a prominent statement that a signature on the petition means that the parent or legal guardian is meaningfully interested in having his or her child or ward attend the charter school, or in the case of a teacher's signature, means that the teacher is meaningfully interested in teaching at the charter school. The proposed charter shall be attached to the petition.

(4) After receiving approval of its petition, a charter school that proposes to establish operations at one or more additional sites shall request a material revision to its charter and shall notify the authority that granted its charter of those additional locations. The authority that granted its charter shall consider whether to approve those additional locations at an open, public meeting. If the additional locations are approved, they shall be a material revision to the charter school's charter.

(5) Notwithstanding subdivision (a), a charter school that is unable to locate within the jurisdiction of the chartering school district may establish one site outside the boundaries of the school district, but within the county within which that school district is located, if the school district within whose jurisdiction the charter school proposes to operate is notified in advance of the charter petition approval, the county superintendent of schools and the Superintendent are notified of the location of the charter school before it commences operations, and either of the following circumstances exist:

(A) The school has attempted to locate a single site or facility to house the entire program, but a site or facility is unavailable in the area in which the school chooses to locate.

(B) The site is needed for temporary use during a construction or expansion project.

(6) Commencing January 1, 2003, a petition to establish a charter school may not be approved to serve pupils in a grade level that is not served by the school district of the governing board considering the petition, unless the petition proposes to serve pupils in all of the grade levels served by that school district.

(b) No later than 30 days after receiving a petition, in accordance with subdivision (a), the governing board of the school district shall hold a public hearing on the provisions of the charter, at which time the governing board of the school district shall consider the level of support for the petition by teachers employed by the district, other employees of the district, and parents. Following review of the petition and the

public hearing, the governing board of the school district shall either grant or deny the charter within 60 days of receipt of the petition, provided, however, that the date may be extended by an additional 30 days if both parties agree to the extension. In reviewing petitions for the establishment of charter schools pursuant to this section, the chartering authority shall be guided by the intent of the Legislature that charter schools are and should become an integral part of the California educational system and that establishment of charter schools should be encouraged. The governing board of the school district shall grant a charter for the operation of a school under this part if it is satisfied that granting the charter is consistent with sound educational practice. The governing board of the school district shall not deny a petition for the establishment of a charter school unless it makes written factual findings, specific to the particular petition, setting forth specific facts to support one or more of the following findings:

(1) The charter school presents an unsound educational program for the pupils to be enrolled in the charter school.

(2) The petitioners are demonstrably unlikely to successfully implement the program set forth in the petition.

(3) The petition does not contain the number of signatures required by subdivision (a).

(4) The petition does not contain an affirmation of each of the conditions described in subdivision (d).

(5) The petition does not contain reasonably comprehensive descriptions of all of the following:

(A) (i) A description of the educational program of the school, designed, among other things, to identify those whom the school is attempting to educate, what it means to be an "educated person" in the 21st century, and how learning best occurs. The goals identified in that program shall include the objective of enabling pupils to become self-motivated, competent, and lifelong learners.

(ii) If the proposed school will serve high school pupils, a description of the manner in which the charter school will inform parents about the transferability of courses to other public high schools and the eligibility of courses to meet college entrance requirements. Courses offered by the charter school that are accredited by the Western Association of Schools and Colleges may be considered transferable and courses approved by the University of California or the California State University as creditable under the "A" to "G" admissions criteria may be considered to meet college entrance requirements.

(B) The measurable pupil outcomes identified for use by the charter school. "Pupil outcomes," for purposes of this part, means the extent to which all pupils of the school demonstrate that they have attained the

skills, knowledge, and attitudes specified as goals in the school's educational program.

(C) The method by which pupil progress in meeting those pupil outcomes is to be measured.

(D) The governance structure of the school, including, but not limited to, the process to be followed by the school to ensure parental involvement.

(E) The qualifications to be met by individuals to be employed by the school.

(F) The procedures that the school will follow to ensure the health and safety of pupils and staff. These procedures shall include the requirement that each employee of the school furnish the school with a criminal record summary as described in Section 44237.

(G) The means by which the school will achieve a racial and ethnic balance among its pupils that is reflective of the general population residing within the territorial jurisdiction of the school district to which the charter petition is submitted.

(H) Admission requirements, if applicable.

(I) The manner in which annual, independent, financial audits shall be conducted, which shall employ generally accepted accounting principles, and the manner in which audit exceptions and deficiencies shall be resolved to the satisfaction of the chartering authority.

(J) The procedures by which pupils can be suspended or expelled.

(K) The manner by which staff members of the charter schools will be covered by the State Teachers' Retirement System, the Public Employees' Retirement System, or federal social security.

(L) The public school attendance alternatives for pupils residing within the school district who choose not to attend charter schools.

(M) A description of the rights of any employee of the school district upon leaving the employment of the school district to work in a charter school, and of any rights of return to the school district after employment at a charter school.

(N) The procedures to be followed by the charter school and the entity granting the charter to resolve disputes relating to provisions of the charter.

(O) A declaration whether or not the charter school shall be deemed the exclusive public school employer of the employees of the charter school for the purposes of the Educational Employment Relations Act (Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code).

(P) A description of the procedures to be used if the charter school closes. The procedures shall ensure a final audit of the school to determine the disposition of all assets and liabilities of the charter school,

including plans for disposing of any net assets and for the maintenance and transfer of pupil records.

(c) (1) Charter schools shall meet all statewide standards and conduct the pupil assessments required pursuant to Sections 60605 and 60851 and any other statewide standards authorized in statute or pupil assessments applicable to pupils in noncharter public schools.

(2) Charter schools shall, on a regular basis, consult with their parents, legal guardians, and teachers regarding the school's educational programs.

(d) (1) In addition to any other requirement imposed under this part, a charter school shall be nonsectarian in its programs, admission policies, employment practices, and all other operations, shall not charge tuition, and shall not discriminate against any pupil on the basis of the characteristics listed in Section 220. Except as provided in paragraph (2), admission to a charter school shall not be determined according to the place of residence of the pupil, or of his or her parent or legal guardian, within this state, except that any existing public school converting partially or entirely to a charter school under this part shall adopt and maintain a policy giving admission preference to pupils who reside within the former attendance area of that public school.

(2) (A) A charter school shall admit all pupils who wish to attend the school.

(B) However, if the number of pupils who wish to attend the charter school exceeds the school's capacity, attendance, except for existing pupils of the charter school, shall be determined by a public random drawing. Preference shall be extended to pupils currently attending the charter school and pupils who reside in the district except as provided for in Section 47614.5. Other preferences may be permitted by the chartering authority on an individual school basis and only if consistent with the law.

(C) In the event of a drawing, the chartering authority shall make reasonable efforts to accommodate the growth of the charter school and, in no event, shall take any action to impede the charter school from expanding enrollment to meet pupil demand.

(3) If a pupil is expelled or leaves the charter school without graduating or completing the school year for any reason, the charter school shall notify the superintendent of the school district of the pupil's last known address within 30 days, and shall, upon request, provide that school district with a copy of the cumulative record of the pupil, including a transcript of grades or report card, and health information. This paragraph applies only to pupils subject to compulsory full-time education pursuant to Section 48200.

(e) The governing board of a school district shall not require any employee of the school district to be employed in a charter school.

(f) The governing board of a school district shall not require any pupil enrolled in the school district to attend a charter school.

(g) The governing board of a school district shall require that the petitioner or petitioners provide information regarding the proposed operation and potential effects of the school, including, but not limited to, the facilities to be utilized by the school, the manner in which administrative services of the school are to be provided, and potential civil liability effects, if any, upon the school and upon the school district. The description of the facilities to be used by the charter school shall specify where the school intends to locate. The petitioner or petitioners shall also be required to provide financial statements that include a proposed first-year operational budget, including startup costs, and cashflow and financial projections for the first three years of operation.

(h) In reviewing petitions for the establishment of charter schools within the school district, the governing board of the school district shall give preference to petitions that demonstrate the capability to provide comprehensive learning experiences to pupils identified by the petitioner or petitioners as academically low achieving pursuant to the standards established by the department under Section 54032.

(i) Upon the approval of the petition by the governing board of the school district, the petitioner or petitioners shall provide written notice of that approval, including a copy of the petition, to the applicable county superintendent of schools, the department, and the state board.

(j) (1) If the governing board of a school district denies a petition, the petitioner may elect to submit the petition for the establishment of a charter school to the county board of education. The county board of education shall review the petition pursuant to subdivision (b). If the petitioner elects to submit a petition for establishment of a charter school to the county board of education and the county board of education denies the petition, the petitioner may file a petition for establishment of a charter school with the state board, and the state board may approve the petition, in accordance with subdivision (b). Any charter school that receives approval of its petition from a county board of education or from the state board on appeal shall be subject to the same requirements concerning geographic location that it would otherwise be subject to if it receives approval from the entity to whom it originally submits its petition. A charter petition that is submitted to either a county board of education or to the state board shall meet all otherwise applicable petition requirements, including the identification of the proposed site or sites where the charter school will operate.

(2) In assuming its role as a chartering agency, the state board shall develop criteria to be used for the review and approval of charter school petitions presented to the state board. The criteria shall address all elements required for charter approval, as identified in subdivision (b) and shall define "reasonably comprehensive" as used in paragraph (5) of subdivision (b) in a way that is consistent with the intent of this part. Upon satisfactory completion of the criteria, the state board shall adopt the criteria on or before June 30, 2001.

(3) A charter school for which a charter is granted by either the county board of education or the state board based on an appeal pursuant to this subdivision shall qualify fully as a charter school for all funding and other purposes of this part.

(4) If either the county board of education or the state board fails to act on a petition within 120 days of receipt, the decision of the governing board of the school district, to deny a petition shall, thereafter, be subject to judicial review.

(5) The state board shall adopt regulations implementing this subdivision.

(6) Upon the approval of the petition by the county board of education, the petitioner or petitioners shall provide written notice of that approval, including a copy of the petition to the department and the state board.

(k) (1) The state board may, by mutual agreement, designate its supervisorial and oversight responsibilities for a charter school approved by the state board to any local education agency in the county in which the charter school is located or to the governing board of the school district that first denied the petition.

(2) The designated local education agency shall have all monitoring and supervising authority of a chartering agency, including, but not limited to, powers and duties set forth in Section 47607, except the power of revocation, which shall remain with the state board.

(3) A charter school that has been granted its charter through an appeal to the state board and elects to seek renewal of its charter shall, prior to expiration of the charter, submit its petition for renewal to the governing board of the school district that initially denied the charter. If the governing board of the school district denies the school's petition for renewal, the school may petition the state board for renewal of its charter.

(*l*) Teachers in charter schools shall hold a Commission on Teacher Credentialing certificate, permit, or other document equivalent to that which a teacher in other public schools would be required to hold. These documents shall be maintained on file at the charter school and are subject to periodic inspection by the chartering authority. It is the intent of the Legislature that charter schools be given flexibility with regard to noncore, noncollege preparatory courses.

(m) A charter school shall transmit a copy of its annual, independent, financial audit report for the preceding fiscal year, as described in subparagraph (I) of paragraph (5) of subdivision (b), to its chartering entity, the Controller, the county superintendent of schools of the county in which the charter school is sited, unless the county board of education of the county in which the charter school is sited is the chartering entity, and the department by December 15 of each year. This subdivision does not apply if the audit of the charter school is encompassed in the audit of the chartering entity pursuant to Section 41020.

SEC. 28. Section 51004 of the Education Code is amended to read:

51004. The Legislature hereby recognizes that it is the policy of the people of the State of California to provide an educational opportunity to the end that every pupil leaving school shall have the opportunity to be prepared to enter the world of work; that every pupil who graduates from any state-supported educational institution should have sufficient marketable skills for legitimate remunerative employment; that every qualified and eligible adult citizen shall be afforded an educational opportunity to become suitably employed in some remunerative field of employment; and that these opportunities are a right to be enjoyed without regard to economic status or the characteristics listed in Section 220.

The Legislature further recognizes that all pupils need to be provided with opportunities to explore and make career choices and to seek appropriate instruction and training to support those choices. The Legislature therefore finds that fairs as community resource and youth leadership activities are integral to assisting and guiding pupils in making choices and therefore encourage the further expansion of cooperative activities between schools, youth leadership activities, and community resources. Among community resources of particular significance in providing information on various career opportunities are vocational and occupational exhibits, demonstrations and activities conducted at fairs.

SEC. 29. Section 51500 of the Education Code is amended to read:

51500. No teacher shall give instruction nor shall a school district sponsor any activity that promotes a discriminatory bias because of a characteristic listed in Section 220.

SEC. 30. Section 51802 of the Education Code is amended to read:

51802. (a) The governing board of a school district maintaining a home teaching program, or providing home instruction as authorized by law for pupils with disabilities, may provide home teaching or instruction on Saturday.

(b) No pupil shall be required to attend a home teaching program or home instruction on Saturday without the consent of his or her parent or legal guardian.

SEC. 31. Section 60800 of the Education Code is amended to read:

60800. (a) During the month of February, March, April, or May, the governing board of each school district maintaining any of grades 5, 7, and 9 shall administer to each pupil in those grades the physical performance test designated by the state board. Each pupil with a physical disability and each pupil who is physically unable to take all of the physical performance test shall be given as much of the test as his or her condition will permit.

(b) Upon request of the department, a school district shall submit to the department, at least once every two years, the results of its physical performance testing.

(c) The department shall compile the results of the physical performance test and submit a report every two years, by December 31, to the Legislature and Governor that standardizes the data, tracks the development of high-quality fitness programs, and compares the performance of California's pupils with national performance, to the extent that funding is available.

(d) Pupils shall be provided with their individual results after completing the physical performance testing. The test results may be provided orally as the pupil completes the testing.

(e) The governing board of a school district shall report the aggregate results of its physical performance testing administered pursuant to this section in their annual school accountability report card required by Sections 33126 and 35256.

SEC. 32. Section 66030 of the Education Code is amended to read:

66030. (a) It is the intent of the Legislature that public higher education in California strive to provide educationally equitable environments that give each Californian, regardless of age, economic circumstance, or the characteristics listed in Section 66270, a reasonable opportunity to develop fully his or her potential.

(b) It is the responsibility of the governing boards of institutions of higher education to ensure and maintain multicultural learning environments free from all forms of discrimination and harassment, in accordance with state and federal law.

SEC. 33. Section 66210 of the Education Code is amended to read:

66210. (a) The Office of Emergency Services shall develop guidelines for campuses of the University of California and the California State University to use in developing emergency evacuation plans for all forms of student housing owned, operated, and offered by the university, both on campus and off campus. In developing the guidelines,

the Office of Emergency Services shall consider Sections 3.09 and 3.13 of Title 19 of the California Code of Regulations. The guidelines shall address all of the following issues:

(1) Plan content. The plans should include, but need not be limited to, the following:

(A) Specific evacuation routes that recognize the needs of persons with special needs, such as persons with disabilities.

(B) The designation of a meeting place or places upon evacuation.

(C) The education of students and staff in emergency procedures.

(2) The implementation and maintenance of the evacuation plan by the Director of Student Housing, or other appropriate officer, at the individual campuses. The director, or other appropriate officer, is responsible for scheduling periodic tests of the plan and implementing changes as needed.

(b) Each campus of the University of California and the California State University shall establish an emergency evacuation plan for its postsecondary student housing and may consult with the Office of Emergency Services for guidance in developing and establishing the plan.

SEC. 34. Section 66250 of the Education Code is amended to read:

66250. This chapter shall be known, and may be cited, as the Equity in Higher Education Act.

SEC. 35. Section 66251 of the Education Code is amended to read:

66251. It is the policy of the State of California to afford all persons, regardless of disability, gender, nationality, race or ethnicity, religion, sexual orientation, or any other basis that is contained in the prohibition of hate crimes set forth in subdivision (a) of Section 422.6 of the Penal Code, equal rights and opportunities in the postsecondary institutions of the state. The purpose of this chapter is to prohibit acts that are contrary to that policy and to provide remedies therefor.

SEC. 36. Section 66260.5 is added to the Education Code, to read:

66260.5. "Disability" includes mental and physical disability as defined in Section 12926 of the Government Code.

SEC. 37. Section 66260.7 is added to the Education Code, to read:

66260.7. "Gender" means sex, and includes a person's gender identity and gender related appearance and behavior whether or not stereotypically associated with the person's assigned sex at birth.

SEC. 38. Section 66261.5 is added to the Education Code, to read:

66261.5. "Nationality" includes citizenship, country of origin, and national origin.

SEC. 39. Section 66261.7 is added to the Education Code, to read:

66261.7. "Race or ethnicity" includes ancestry, color, ethnic group identification, and ethnic background.

SEC. 40. Section 66262 of the Education Code is repealed.

SEC. 41. Section 66262 is added to the Education Code, to read:

66262. "Religion" includes all aspects of religious belief, observance, and practice and includes agnosticism and atheism.

SEC. 42. Section 66262.7 is added to the Education Code, to read:

66262.7. "Sexual orientation" means heterosexuality, homosexuality, or bisexuality.

SEC. 43. Section 66269 is added to the Education Code, to read:

66269. Disability, gender, nationality, race or ethnicity, religion, sexual orientation, or any other characteristic contained in the definition of hate crimes set forth in Section 422.55 of the Penal Code includes a perception that the person has any of those characteristics or that the person is associated with a person who has, or is perceived to have, any of those characteristics.

SEC. 44. Section 66270 of the Education Code is amended to read:

66270. No person shall be subjected to discrimination on the basis of disability, gender, nationality, race or ethnicity, religion, sexual orientation, or any other characteristic that is contained in the prohibition of hate crimes set forth in subdivision (a) of Section 422.6 of the Penal Code in any program or activity conducted by any postsecondary educational institution that receives, or benefits from, state financial assistance or enrolls students who receive state student financial aid.

SEC. 44.5. Section 66270 of the Education Code is amended to read:

66270. No person shall be subjected to discrimination on the basis of disability, gender, nationality, race or ethnicity, religion, sexual orientation, or any characteristic listed or defined in Section 11135 of the Government Code or any other characteristic that is contained in the prohibition of hate crimes set forth in subdivision (a) of Section 422.6 of the Penal Code in any program or activity conducted by any postsecondary educational institution that receives, or benefits from, state financial assistance or enrolls students who receive state student financial aid.

SEC. 45. Section 66270.5 of the Education Code is amended and renumbered to read:

66271. This chapter shall not apply to an educational institution that is controlled by a religious organization if the application would not be consistent with the religious tenets of that organization.

SEC. 46. Section 66292 of the Education Code is amended to read:

66292. (a) The governing board of a community college district shall have the primary responsibility for ensuring that community college district programs and activities are free from discrimination based on age and the characteristics listed in Section 66270.

(b) The Chancellor's office of the California Community Colleges shall have responsibility for monitoring the compliance of each district with any and all regulations adopted pursuant to Section 11138 of the Government Code.

SEC. 47. Section 66292.1 of the Education Code is amended to read:

66292.1. The Chancellor of the California State University and the president of each California State University campus shall have the primary responsibility for ensuring that campus programs and activities are free from discrimination based on age and the characteristics listed in Section 66270.

SEC. 48. Section 66292.2 of the Education Code is amended to read:

66292.2. The President of the University of California and the chancellor of each University of California campus shall have primary responsibility for ensuring that campus programs and activities are free from discrimination based on age and the characteristics listed in Section 66270.

SEC. 49. Section 69535 of the Education Code is amended to read:

69535. (a) Cal Grant Program awards shall be based upon the financial need of the applicant. The level of financial need of each applicant shall be determined by the commission pursuant to Article 1.5 (commencing with Section 69503).

(b) For the applicants so qualifying, academic criteria or criteria related to past performances shall be utilized as the criteria in determining eligibility for grants.

(c) All Cal Grant Program award recipients shall be residents of California, as determined by the commission pursuant to Part 41 (commencing with Section 68000), and shall remain eligible only if they are in attendance and making satisfactory progress through the instructional programs, as determined by the commission.

(d) Part-time students shall not be discriminated against in the selection of Cal Grant Program award recipients, and awards to part-time students shall be roughly proportional to the time spent in the instructional program, as determined by the commission. First-time Cal Grant Program award recipients who are part-time students shall be eligible for a full-time renewal award.

(e) Cal Grant Program awards shall be awarded without regard to age or the characteristics listed in Section 66270.

(f) No applicant shall receive more than one type of Cal Grant Program award concurrently. Except as provided in subdivisions (b) and (c) of Section 69535.1, no applicant shall:

(1) Receive one or a combination of Cal Grant Program awards in excess of a total of four years of full-time attendance in an undergraduate program.

(2) Have obtained a baccalaureate degree prior to receiving a Cal Grant Program award, except as provided in Section 69540.

(g) Cal Grant Program awards, except as provided in subdivision (c) of Section 69535.1, may only be used for educational expenses of a program of study leading directly to an undergraduate degree or certificate, or for expenses of undergraduate coursework in a program of study leading directly to a first professional degree, but for which no baccalaureate degree is awarded.

(h) Commencing in 1999, the commission shall, for students who accelerate college attendance, increase the amount of award proportional to the period of additional attendance resulting from attendance in classes that fulfill requirements or electives for graduation during summer terms, sessions, or quarters. In the aggregate, the total amount a student may receive in a four-year period may not be increased as a result of accelerating his or her progress to a degree by attending summer terms, sessions, or quarters.

(i) The commission shall notify Cal Grant award recipients of the availability of funding for the summer term, session, or quarter through prominent notice in financial aid award letters, materials, guides, electronic information, and other means that may include, but not be limited to, surveys, newspaper articles, or attachments to communications from the commission and any other published documents.

(j) The commission may provide by appropriate rules and regulations for reports, accounting, and statements from the award winner and college or university of attendance pertaining to the use or application of the award as the commission may deem proper.

(k) The commission may establish Cal Grant Program awards in one hundred dollar ($100) increments.

(*l*) A Cal Grant Program award may be utilized only at the following institutions or programs:

(1) Any California private or independent postsecondary educational institution or program that participates in two of the three federal campus-based student aid programs and whose students participate in the Pell Grant program.

(2) Any nonprofit regionally accredited institution headquartered and operating in California that certifies to the commission that 10 percent of the institution's operating budget, as demonstrated in an audited financial statement, is expended for the purposes of institutionally funded student financial aid in the form of grants and that demonstrates to the commission that it has the administrative capacity to administer the funds.

(3) Any California public postsecondary educational institution or program.

SEC. 50. Section 72011 of the Education Code is amended to read:

72011. Every community college district shall provide access to its services, classes, and programs without regard to the characteristics listed in Section 66270.

SEC. 51. Section 72012 of the Education Code is amended to read:

72012. Every community college shall comply with Section 66016, the Equity in Higher Education Act as set forth in Chapter 4.5 (commencing with Section 66250) of Part 40 of Division 5, and other applicable laws relating to discrimination.

SEC. 52. Section 72013 of the Education Code is repealed.

SEC. 53. Section 72014 of the Education Code is amended to read:

72014. No funds under the control of a community college district shall ever be used for membership or for any participation involving a financial payment or contribution, on behalf of the district or any individual employed by or associated therewith, in any private organization whose membership practices are discriminatory on the basis of the characteristics listed in Section 66270. This section does not apply to any public funds that have been paid to an individual officer or employee of the district as salary, or to any funds that are used directly or indirectly for the benefit of student organizations.

SEC. 54. Section 82305.6 of the Education Code is amended to read:

82305.6. When the governing board of a community college district provides for the transportation of students to and from community colleges, the governing board of the district may require the parents and legal guardians of all or some of the students transported, to pay a portion of the cost of the transportation in an amount determined by the governing board. The amount determined by the board shall be no greater than that paid for transportation on a common carrier or municipally owned transit system by other students in the district who do not use the transportation provided by the district. The governing board shall exempt from the charges students of parents and legal guardians who are indigent as set forth in rules and regulations adopted by the board. No charge under this section shall be made for the transportation of students with disabilities. Nothing in this section shall be construed to sanction, perpetuate, or promote the racial or ethnic segregation of students in the community colleges.

SEC. 55. Section 89757 of the Education Code is amended to read:

89757. None of the funds enumerated in Section 89756, nor any of the funds of an auxiliary organization, shall ever be used by any university or college for membership or for any participation involving a financial payment or contribution, on behalf of the institution, or any individual employed by or associated therewith, in any private organization whose membership practices are discriminatory on the basis

of the characteristics listed in Section 66270. This section does not apply to any public funds that have been paid to an individual employee or officer as salary, or to any funds that are used directly or indirectly for the benefit of student organizations.

SEC. 56. Section 92150 of the Education Code is amended to read:

92150. No state funds under the control of an officer or employee of the University of California shall ever be used for membership or for any participation involving a financial payment or contribution, on behalf of the university, or any individual employed by or associated therewith, in any private organization whose membership practices are discriminatory on the basis of the characteristics listed in Section 66270. This section does not apply to any public funds that have been paid to an individual employee or officer of the university as salary, or to any funds that are used directly or indirectly for the benefit of student organizations.

SEC. 57. Section 94600 of the Education Code is amended to read:

94600. (a) The Office of Emergency Services shall develop guidelines for private colleges and universities to use in developing emergency evacuation plans for all forms of student housing owned, operated, and offered by private colleges and universities, both on campus and off campus. In developing the guidelines, the Office of Emergency Services shall consider Sections 3.09 and 3.13 of Title 19 of the California Code of Regulations. The guidelines shall address all of the following issues:

(1) Plan content. The plans should include, but need not be limited to, the following:

(A) Specific evacuation routes that recognize the needs of persons with special needs, such as persons with disabilities.

(B) The designation of a meeting place or places upon evacuation.

(C) The education of students and staff in emergency procedures.

(2) The implementation and maintenance of the evacuation plan by the Director of Student Housing, or other appropriate officer, at individual campuses. The director, or other appropriate officer, is responsible for scheduling periodic tests of the plan and implementing changes as needed.

(b) Each private college or university shall establish an emergency evacuation plan for its postsecondary student housing and may consult with the Office of Emergency Services for guidance in developing and establishing the plan.

SEC. 58. Section 24.5 of this bill incorporates amendments to Section 44253.3 of the Education Code proposed by both this bill and SB 859. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2008, (2) each bill amends Section

44253.3 of the Education Code, and (3) this bill is enacted after SB 859, in which case Section 24 of this bill shall not become operative.

SEC. 59. Section 44.5 of this bill incorporates amendments to Section 66270 of the Education Code proposed by both this bill and AB 14. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2008, (2) each bill amends Section 66270 of the Education Code, and (3) this bill is enacted after AB 14, in which case Section 44 of this bill shall not become operative.

CHAPTER 570

An act to add Section 3004.5 to the Fish and Game Code, relating to conservation.

[Approved by Governor October 13, 2007. Filed with Secretary of State October 13, 2007.]

The people of the State of California do enact as follows:

SECTION 1. This act shall be known, and may be cited, as the Ridley-Tree Condor Preservation Act.

SEC. 2. It is the intent of the Legislature to protect vulnerable wildlife species, including the California condor, a federally listed endangered species and a state listed endangered and fully protected species, from the ongoing threat of lead poisoning.

SEC. 3. Section 3004.5 is added to the Fish and Game Code, to read:

3004.5. (a) Nonlead centerfire rifle and pistol ammunition, as determined by the commission, shall be required when taking big game with rifle or pistol, as defined by Section 350 of the department's mammal hunting regulations, and when taking coyote, within the department's deer hunting zone A South, but excluding Santa Cruz, Alameda, Contra Costa, San Mateo, and San Joaquin Counties, areas west of Highway 101 within Santa Clara County, and areas between Highway 5 and Highway 99 within Stanislaus, Merced, Madera, Fresno, Kings, Tulare, and Kern Counties, and within deer hunting zones D7, D8, D9, D10, D11, and D13.

(b) By July 1, 2008, the commission shall establish, by regulation, a public process to certify centerfire rifle and pistol ammunition as nonlead ammunition, and shall define, by regulation, nonlead ammunition as including only centerfire rifle and pistol ammunition in which there is no lead content. The commission shall establish and annually update a list of certified centerfire rifle and pistol ammunition.

(c) (1) To the extent that funding is available, the commission shall establish a process that will provide hunters within the department's deer hunting zone A South, but excluding Santa Cruz, Alameda, Contra Costa, San Mateo, and San Joaquin Counties, areas west of Highway 101 within Santa Clara County, and areas between Highway 5 and Highway 99 within Stanislaus, Merced, Madera, Fresno, Kings, Tulare, and Kern Counties, and within deer hunting zones D7, D8, D9, D10, D11, and D13 with nonlead ammunition at no or reduced charge. The process shall provide that the offer for nonlead ammunition at no or reduced charge may be redeemed through a coupon sent to a permitholder with the appropriate permit tag. If available funding is not sufficient to provide nonlead ammunition at no charge, the commission shall set the value of the reduced charge coupon at the maximum value possible through available funding, up to the average cost within this state for nonlead ammunition, as determined by the commission.

(2) The nonlead ammunition coupon program described in paragraph (1) shall be implemented only to the extent that sufficient funding, as determined by the Department of Finance, is obtained from local, federal, public, or other nonstate sources in order to implement the program.

(3) If the nonlead ammunition coupon program is implemented, the commission shall issue a report on the usage and redemption rates of ammunition coupons. The report shall cover calendar years 2008, 2009, and 2012. Each report shall be issued by June of the following year.

(d) The commission shall issue a report on the levels of lead found in California condors. This report shall cover calendar years 2008, 2009, and 2012. Each report shall be issued by June of the following year.

(e) The department shall notify those hunters who may be affected by this section.

(f) A person who violates any provision of this section is guilty of an infraction punishable by a fine of five hundred dollars ($500). A second or subsequent offense shall be punishable by a fine of not less than one thousand dollars ($1,000) or more than five thousand dollars ($5,000).

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.